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THE
CONVEYANCER'S ASSISTANT;

OR,

A SERIES

OF

PRECEDENTS IN CONVEYANCING

And Commercial Forms,

In Alphabetical Order,

AFTER THE MANNER OF

JONES'S ATTORNEY'S POCKET BOOK,

ADAPTED TO THE PRESENT STATE OF THE LAW

AND THE PRACTICE OF CONVEYANCING;

WITH

COPIOUS PREFACES, OBSERVATIONS, AND NOTES ON THE SEVERAL DEEDS,

AND THE

LATE REAL PROPERTY ACTS, &c.

BY

GEORGE CRABB, Esq.

BARRISTER AT LAW.

IN TWO VOLUMES.

VOL. II.

London:

HENRY BUTTERWORTH,

LAW BOOKSELLER AND PUBLISHER,

Nº 7, FLEET STREET.

1835.

J. BAKER, PRINTER,
Grave Court, Fleet Street, London.

THE CONVEYANCER'S ASSISTANT.

COVENANTS.

§ 1. A covenant is the consent or agreement of two or more persons to do, or not to do, some act or thing contracted between them. And there is this difference between a covenant and a simple agreement, that an agreement may be by parol or verbal, but a covenant must be created by deed, in writing, sealed and delivered by the parties; Plowd. 308. And an action of covenant will not be upon a verbal agreement, for it cannot be grounded without writing; F. N. B. 45. Between a covenant and a condition there is a difference as to the remedy; a condition broken defeats an estate, and gives a right of entry; but a covenant broken gives an action only; Owen, 54. Definition.

2. Covenants are real or personal: a covenant real is, where a man ties himself to pass a thing real, as lands or tenements, or to levy a fine, &c.; and a covenant personal is, when the same is annexed to the person, and merely personal, as if a person covenant with another to build a house, or to serve him, &c.; Co. Litt. 184. Covenants are inherent, or run with the land, when they tend to the support of the land or thing granted, as, to repair the demised premises; or they are collateral when they do not concern the subject of the demise, as, to build a house on land not parcel of the demise, or to pay a sum of money, &c.; 5 Co. 8. The heir may take advantage of inherent covenants, though he is not bound by them, unless expressly named; *Ib.* 16, 17. Assigns, as well as executors and administrators, are bound by them, although not named, and may likewise take advantage of them; *Ib.* 16, Roll. Abr. 5, 21. Assigns are not bound by collateral covenants, although named; *The Mayor of Congleton v. Pattison*, 10 E. 130. An executor and administrator is bound by every covenant in respect of the assets which come into his hands, whether he be named or not, unless it be such a covenant as is to be personally performed by the covenantor, and there has been no breach before his death; Dyer 324, a; Cro. Eliz. 553; Sheph. T. 178. (As to covenants in leases and purchase deeds, see further, '*Leases and Purchase Deeds.*') A covenant may either be express or implied. An express covenant is that which is inscribed in express words. An implied covenant, or a covenant in law, is that which the law intends or implies, from the nature of the contract, although not expressed in words; as, when a lease is made by the words 'demise and grant,' without any express covenant for quiet enjoyment; yet in this case the law intends that the lessee shall quietly hold and

Different kinds.

From
Manag-
ing Clerk.

enjoy the demised premises; Sheph. Touch. 161. (As to express and implied covenants, see further, *Leases*.) Covenants may likewise be joint or several, or joint and several. Where the interest is joint, the covenant is held to be joint, although the words may import a joint and several covenant; *Eccleston v. Clipsham*; 1 Saund. 155. On the other hand, where the interest is several, the covenant is held to be several, although the words import a joint covenant; *Withers v. Bircham*, 3 B. and C. 254. As to covenants, joint and several, see further, *Bonds*. A covenant may be of a thing executed, that is, that it is done, or of a thing executory, that is, that it shall be done, either at one time, or from time to time. On covenants of this latter kind an action will lie as often as a breach shall happen; Shep. Touchst. Prest. Ed. 162.

Proper
words.

3. The word covenant is not necessary to make a covenant 1 Roll. Abr. 519. Any words which show the concurrence of the parties to the performance of an act, is effectual for that purpose; Shep. Touchst. 162; 1 Leon. 324; 1 Ch. Ca. 294. Where words beginning any sentence are conditional, and give another remedy, it has been held that they shall not be construed a covenant; but if words of condition and covenant be coupled together, as, 'Provided always and it is covenanted,' in that case they may be adjudged to be both a condition and a covenant; Sheph. Touch. 162. One who covenants for himself, his heirs, &c. shall be personally bound by his covenant, though he describes himself in the deed as covenanting for and on the part and behalf of another person; *Appleton v. Binks*, 5 E. 148.

Effect.

4. A covenant may sometimes operate and produce transmutation of possession, as a covenant to stand seised to uses (see *Precedent*.) And so where one covenants that another shall have a piece of land for five years; this is a good lease for five years; Hob. 55; Shep. T. 161.

Discharged
by deed.

5. Covenants cannot be discharged except by deed; 1 Selw. N. P. 510. A parol agreement therefore cannot be the foundation of an action upon a covenant under a seal whereby the parties bound themselves to perform a different contract; *Thomson v. Brown*, 1 Moore, 358.

6. As to the matter of covenants, whether lawful or unlawful, &c. see '*Bonds*,' § 6. (See further, as to Covenants, *Annuity*, *Mortgage of Copyholds*, *Purchase Deeds*.)

*Deed of Covenants from a Managing Clerk of a Bank-
ing-house and Surety for the faithful Execution of
his Office.*

Recital.

Agreement
with clerk.

Testatum.

This Indre made, &c. Betn (clerk) of, &c. of the first pt (surety) of, &c. of the second pt and (principals) of, &c. of the third pt Whas the sd (P) carry on the trade or business of bankers at and have agrd at the request of the sd (C) to employ him in the superintendence and management of the sd banking concern at the salary of £ — per ann. upon the sd (C) and also the sd (S) entering into the covts as hnaft mentd
Now this Indre Witnesseth That in pursuance of the sd agrt he the sd (C) for himself his hrs exs and ads doth hby covt promise and agree with and to the sd (P) their

COVENANTS.

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exs and ads in manner following that is to say That he the sd (C) shall and will henceforth so long as he shall be retained as a clerk in the sd banking concern give up the whole of his time and attention to the sd business and with such assistance as may be requisite to extend and improve the same to the utmost of his ability for the bent of the sd (P) And shall and will during such period as afd do and perform all such acts matters and things in or about the sd trade or business as the sd (P) shall from time to time direct or appt And shall not nor will at any time or times hraft with the consent of the sd (P) or the partners for the time being divulge or make known any of the trusts secrets accts or dealings of or relating to the sd banking concern And that he the sd (C) shall and will so long as he shall continue to be employed as afd be just and faithful to the sd (P) in all his dealings and transactions whatsr And shall and will from time to time write and enter or cause to be written and entered in such book or books as is are or shall at any time by and at the expense of the sd (P) be provided for that purpe a full and true acct of all mos recd or lodged in the Banking-house and secities for money which shall be the property lodged or deposited with or shall come to the hands of the sd (C) as the clk of the sd (P) on the acct and for the bent of the sd (P) or the ptns for the time being and of all or matters and circumstances necessary and requisite to manifest the state of the sd banking concern And which sd book or books shall be kept in some convenient place where the same concern is or shall be carried on and shall at all times be open to the inspection of the sd (P) or such or. pns as they shall for that purpe appt And this Indre furr Witnesseth That in furr pursuance of the sd agrt they the sd (C) and the sd (S) for themselves jily and sevlly and for their respie hrs exs and ads Do and each of them Doth covt, &c. with the sd (P) that they the sd (C) and the sd (S) or one of them or their hrs exs or ads shall and will from time to time hraft save defend and keep harmless and indemnified the capital stock and of the sd (P) or the (a) ptns for the time being of from and agst all losses injury or diminution which shall or may happen or arise to the sd capital stock on acct of any misconduct neglect or non-performance of any of the covts hnbefe contd on the pt of the sd (C) in his capacity of clerk or for or on acct of the sd (C) not duly accounting for and paying to the

*From
Manag-
ing Clerk.*

*Covenants.
Clerk to
give up his
whole time.*

*Not divulge
secrets.*

Be faithful.

*Further
testatum.*

*Indemnity
from clerk
and surety.*

(a) As to the effect of omitting this clause, so as to restrict the liability of the surety, see *Bonds*, Pref. § 7.

COVENANTS.

Indemnity sd (P) all mos pd to or recd by the sd (C) upon acct of or as clerk to the sd (P) or the ptnrs for the time being in the sd banking concern afd or for or by reason or on acct of any act matter or thing relating thereto *Provided always* and it is hby decld and agrd by and betn the sd pties hereto that it shall and may be lful to and for the sd (P) or the ptnrs for the time being at any time hrafr at their free will and pleasure to revoke and determine the apptmt of the sd (C) as their clerk as afd any thing herein contd to the contrary notwithstanding *In Witness, &c.*

Liberty to diamiss clerk.

Deed of Covenants and Grants of Powers of Distress and Entry, as an Indemnity against the Payment of the Ground Rent.

Recital of lease. *This Indre made, &c. Betn (under lessor) of, &c. of the first pt A B and C D, &c. of, &c. of the second pt K L of, &c. a trustee nominated by and on the pt of the sd (under lessor) of the third pt and O P of, &c. a trustee nominated by and on the pt of the sd A B, &c. of the fourth pt Whas by an indre of lease bearing date, &c. and made betn (ground landlord) of, &c. of the one pt and the sd (under lessor) of the or. pt In consón of the rents covts and agrts thnafr reserved and contd the sd (G L) did demise and lease unto the sd (U L) All that piece or pcl of grd in, &c. as parlarly described in a plan drawn on the margin of the now reciting indre The fence walls therein marked A to be kept in repair by the sd (U L) his exs ads and ass and his and their tenants and the persons occupying the lds adjoining to the preses hby demised to have the liberty of using the north side for the purpose of nailing fruit and or. trees and shrubs not overtopping the sd walls Togr with all ways watercourses, &c. and appts to the sd preses belonging or appertaining To Hold the same preses unto the sd (U L) his exs, &c. for the term of yrs wanting 10 days to be computed from, &c. next ensuing Yielding and paying therefore during the sd term unto the sd (G L) his exs, &c. the yrly rent of £ — paye quarterly, &c. the first quarterly paymt to be made on the day of next ensuing and under and subject to the covts and agrts in the sd indre of lease contained and on the part of the sd (U L) his exs ads or ass to be observed and performed And whas the sd (U L) hath built messes or dwelling-houses upon pt of the sd pce or pcl of grd demised to him by the sd in pt recited indre of lease and the sd messes form part of a street called, &c. in &c. and are sevilly*

That under lessor has built houses.

COVENANTS.

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numbered But the or. pt of the sd grd is at present unbuil upon *And whas* the sd (U L) hath apportioned the sum of £ — per ann. pt of the sd rent paye by him to the sd (G L) under the sd in pt recited indre of lease upon the sd messes or dwelling-houses so erected and built by him as afd And he intends to apportion the sum of £ — per ann. of the sd rent of £ — upon the sd remaining pce of grd and the messes or dwelling-houses to be erected thereon *And whas* the sd (U L) hath lately sold the messes so built by him to wit No. in the street to the sd A B No. to the sd C D and No. to the sd E F for the whole term of yrs granted by the sd indre of original lease subject to the yrly rents of £ — per ann. each but the remaining messe or dwelling-house No. is still unsold and the same togr with the or. pts of the sd pce or pcl of grd demised by the sd indre of lease is now in the possession of the sd (U L) *And whas* the sd (U L) hath on or bef the exon of these prests granted to the sd A B, &c. due under leases of the sevl messes or dwelling-houses sold to them as afd for the residue of the sd term of yrs wanting 10 days as afd at the sd sevl yrly rents of £ — each per ann. and subject to similar covts condons and agrts as those contd in the sd original indre of lease *And whas* the sd messes, &c. so sold to the sd A B, C D, and E F will notwthstg the apportionment or intended apportionment of the sd rent of £ — as afd continue liable to the payment to the sd (G L) and his reptives of the sd original rent of £ — and to distresses in respect thereof in case the same shd be in arrear And to the observance and performance of the covts condons and agrts in the sd indre of original lease contd And the sd A B, C D, and E F or some of them previous to the completion of their sd purchase required a real indemnity agst the paymt of the sd rents of £ — and the covts and agrts resply *And whas* it hath been agrd betn the sd pties to these presents that for the purpe of effecting such an indemnity the sd (U L) shall enter into the covts and grant the sevl prests to the sd (trustees) as mutual trustees on the behalf of the sd pties as hnaft is expssd Now, &c. that in pursuance, &c. and conson of 5s. to the sd (U L) in hand, &c. by the sd (T) pd at, &c. the rect, &c. he the sd (U L) with the consent and approbation of the sd A B, C D, and E F resply testified by their being pties to and exting these prestes *Doth* hby for himself his hrs exs and ads covt and grant with and to the sd (T) that he shall and will from time to time and at all times during the whole term of

Indemnity

Apportionment of rent.

That under lessor has sold houses.

That under leases have been granted.

Agreement to indemnify the under lessees.

Testatum.

Covenant to pay ground-rent, &c.

Indemnity

And indem-
nify under-
tenants.

Power of
distress.

yrs granted by the sd indre of original lease well and truly pay or cause to be pd unto the sd (G L) his exs, &c. the sd rent of £ — reserved and made paye to him and them by the sd indre when and as the same shall become paye accordg to the same lease And also observe and perform all and evy the covts condons and agrts in the sd indre contd and which henceforth on the lessee's pt and behalf are or ought to be observed and performed And of and from the sd rent of £ — and the sd covts condons and agrts resply and all distresses entries leases dams and exps resply on acct thof shall and will from time to time and at all times hrafrt indemnify and save harmless the sd A B, C D, and E F and their respive exs ads and ass and the sd preses and pces and pcls of grd and messes and dwelling-houses so sold and sub-demised to them resply as afd and evy pt thof And also that if deft shall happen to be made by the sd (U L) his exs ads or ass in paymt of the sd rent of £ — or in the observance or performance by him or them of any or either of the covts condons and agrts in the sd original indre of lease reserved and contd as afd and by which deft or defts any distress or distresses entry or entries shall or may be made in or upon the pces or pcls of grd messes, &c. so sold and sub-demised or if the sd A B, C D, or E F their respive exs ads or ass or any of them shall sustain any loss or damage or be put to any expense by reason of the non-payment of the sd rent or non-observance and non-performance of the sd covts in, &c. Then and in every such case and when and so often as the same shall happen it shall and may be lful for the sd (T) as such trustees as afd and the survor of them and the exs, &c. of such survor to enter into and upon the or. pt and residue of the sd pce of grd comprised in, &c. and not sold and sub-demised and the messes dwelling-houses and buildings thereon erected or to be erected and every and any pt thereof in the name of the whole and to distrain the goods and chattels then and there found for the sd rent of £ — or so much thereof as shall then be unpd and which the sd A B, C D, and E F resply and their respive exs, &c. or any of them shall have pd and also of all losses dams and exps to be incurred by the sd A B, C D, and E F their exs, &c. by reason of the non-payment of the sd rent and the distresses then and there found to detain sell and dispose of as in cases of distress for rent reserved in common demises or leases for yrs Upon Trust and to the intent that the sd (T) or the survor, &c. by and out of the mqs to be recovered under such distress or distresses shall

COVENANTS.

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and may after retaining the costs and chas of taking the same or orwise reimburse and indemnify the sd A B, C D, and E F and their respive exs, &c. the sd rent of £ — or so much, &c. and also all losses, &c. by reason, &c. *And this indre furr Witnesseth* That if the sd (U L) his exs ads or ass shall make deft in paymt of the sd rent of £ — to the sd (G L) in the sd, &c. or in the observance and performance of, &c. which are or ought to be performed and kept according to the true intent and meaning of the sd original indre of lease and the sd rent so in arrear and all losses dams and exps by the deft in paymt and observance thereof as afd shall not be raised and satisfied under the provision for that purpe hnbefe contd Then and in every such case when and so often as the same shall happen it shall and may be lful to and for the sd (T) and the survivor, &c. at any time or times after such deft in paymt as afd into and upon the or. pt or residue of the sd pce or pcl of grd and all messes, &c. erected or to be erected or any pt thereof and the same to retain have occupy and enjoy and the rents and prfts thereof to rece and take *Upon Trust* and to the intent that the sd (T) or the survivor, &c. shall and may by and out of the mos to be raised recovd and recd by them and him by virtue of the preceding power (after deducting and retaining to themselves and himself the costs and exps of recovering and receiving the same rents and prfts or orwise incident to the exon of the sd power) reimburse, &c. the sd A B, C D and E F their, &c. the sd rent of, &c. or so much, &c. as they or, &c. or any of them shall have pd or contributed to the paymt thereof and all losses, &c. by reason of the non-payment of the sd rent and non-performance by the sd (U L) his exs ads or ass of the sevl covts, &c. And it is hby decld and agrd by and betn the pties hereto and parlarly the sd (U L) doth hby direct that every rect which from time to time shall be given by the sd (T) or the survivor of them his exs and ads for any money rents and prfts whatsr to be recd by them or him under the powers afd or either of them shall be valid discharges in the law to the tenants or occupiers of the or. pt of the sd pce or pcl of grd so sold and sub-demised as afd and the messes, &c. resply thereon or to any or. psn or psns paying the same for so much money as in any such rect shall be ackngd or expssd to have been recd and release the same tenants or occupiers or or. psn or psns as afd from all obligation of sceing to the application of the same money rents and prfts resply and from all liability by reason of the misapplication or non-applica-

Indemnity

*Further
testatum.
Power of
entry.*

*Receipts of
trustees to
be valid
discharges.*

Indemnity

Appointment of new trustees.

Trustees to be chargeable only for what they receive, &c.

and answerable for their own acts only.

Power to reimburse themselves.

Covenant that under lessor has done no act to incur.

tion thereof resply *Provided always* that if at any time or times hraft the sd (T) or either of them or any or trustee or trustees to be apptd in his or their stead shall happen to die or refuse or neglect or be incapable to act it shall be lful for the sd (U L) his exs ads or ass and for the sd A B, C D, and E F their respive exs, &c. by any deed or deeds to be sealed and delivered by them resply in the presence of two or more credible witnesses to appt a trustee or trustees in the stead of the sd (T) or either of them or of any future trustee or trustees so to be apptd And that all and evy the ad pties hereto resply and their respive exs ads and ass and all pns claiming under them resply shall and will thereon at the mutual expense of the sd (U L) and the sd A B, C D, and E F resply and their respive exs, &c. join and concur in exting all such acts and deeds as shall be requisite and expedient for transferring or vesting in such trustee or trustees as afl the same or like powers as are hby vested in the sd (T) *To the intent* that evy such trustee or trustees may be enabled to act in carrying into effect these prests as fully in all respects as if he had been originally nominated as a trustee herein *And moreover* That the sd (T) their exs and ads and each of them and evy future trustee so to be apptd as afl shall be charged and chargeable only for such mos as they resply and each of them shall actually rece by virtue of, &c. And that they shall not be answerable or acctable for any but wilful defts and neglects nor for any losses or dams which may happen to the sd preses and trust este *And also* That it shall and may be lful for the sd (T) their exs and ads and such future trustees to be apptd resply as afl and each of them by and out of all the mos which shall come to their respive hands by virtue of the trusts and powers afl from time to time to deduct and reimburse to and for themselves and himself resply all costs chas dams and exps which they or any of them shall or may lay out expend or be put unto in or about the exon of the trusts and powers afl or in any wise relating thereto And the sd (U L) doth hby for himself his hrs, &c. covt, &c. with and to the sd (T) their exs and ads that he, &c. (hath done no act to encumber, &c.) *And moreover* That he the sd (U L) his exs ads and ass unless prevented by fire or some inevitable accidents which may happen to the sd indre of original lease while the same shall be kept by the sd (U L) his exs ads or ass shall and will from time to time and at all times during the sd term of yrs at the request of the sd (T) or the survor of them his exs ads or ass or of the sd A B,

C D, and E F or any or either of them and at their costs and chas make do, &c. (Acts for further assurance, &c.) *In Witness, &c.* Indemnity

Deed of Covenants between two Purchasers of Leasehold Estates to indemnify each other against a Moiety of the Rents and Covenants reserved and contained in the Original Lease.

This Indre made, &c. Betn A B of, &c. of the one pt and C D of, &c. of the or. pt *Whas* by indre of lease bearing date the, &c. and made betn (lessor) therein described of the one pt and (lessee) also therein described of the or. pt In conson as well of the costs and chas which the sd (lessee) had been at in building the messes or tents thnafr mentd as of the rents and covts thnafr reserved and contd on the pt and behalf of the sd (lessee) his exs, &c. to be pd done and performed the sd (lessor) did demise unto the sd (lessee) his, &c. All that pce or pcl of grd with the apts *To Hold* the same from the day of then last during the term of yrs and three-quarters of a yr wanting ten days and paying yrly the rent of £ — by quarterly paymts on the days, &c. And subject to the sevl covts therein contd on the pt of the sd (lessee) his exs, &c. to be kept done and performed *And whas* the sd (lessee) did on or about the day of cause the messes or tents comprised in the sd recited indre of lease to be put up to sale in two distinct lots pursuant to printed parlars and condons published previously to such sale at which sale the sd A B and C D being the highest bidders were decld the purchasers of the messes or tents and preses comprised in the sd in pt recited indre of lease that is to say the sd A B was the purchaser of one of the sd messes with the apts being No. 2 at or for the price or sum of £ — and the sd C D was the purchaser of the other of the sd messes at or for the price or sum of £ — *And whas* by indre bearing date the, &c. and made previously to the exon of these prests between the sd (lessee) of the one pt and the sd A B of the second pt and the sd C D of the third pt He the sd (lessee) Hath granted, &c. unto the sd A B All that, &c. (parcels) with the apts *To Hold* the same unto the sd A B his exs, &c. from the of during the then residue of the sd term of yrs granted by the sd in pt recited indre of lease subject nevss to the paymt of £ — being one moiety or half pt reserved and made paye and subject also to the performance of the covts condons and agrts in the same indre of lease contd so far only as the same relate to or con-

Recital of lease.

Sale by auction.

Indemnity cern the messe tent and preses thby assd *And whas* (recite assignment of the or. moiety of messes, &c. to C D) *And whas* by the condons of the sd sale it was stipulated that each of them the purchasers of the sd messes or tents and preses shd pay the yrly rent or sum of £ — in respect of the preses by him purchased being one moiety of the yrly rent or sum of £ — reserved by the sd in pt recited indre of lease *And whas* for the more effectually apportioning the sd yrly rent or sum of £ — betn them the sd A B and C D and their respive exs, &c. and for indemnifying each of them and his exs ads and ass and the preses by him purchased from the rents covts and agrts reserved and contd in the sd in pt recited indre of lease which ought to be pd kept done and performed in respect of the preses purchased by the or. of them it hath been mutually agrd between them the sd A B and C D that they shd enter into the covts and agrts hnafttr contd *Now this Indre Witnesseth* That in pursuance of the sd agrt and in conson of the covts and agrts hnafttr contd on the pt of the sd C D He the sd A B for himself his hrs, &c. doth pby covt, &c. with the sd C D in manner following that is to say That he the sd A B his exs, &c. shall and will from time to time and at all times hrafttr during the residue to come and unexpired of the sd term of yrs and three-quarters, &c. wanting, &c. by the sd indre, &c. granted as afd well and truly pay or cause, &c. unto the sd (lessor) his exs, &c. or such or. psn or psns as shall from time to time be entitled to rece the sd ground-rent or yrly sum or rent of £ — being one moiety or half pt of the sd sum of £ — when and as the same shall become due and paye according to the true intent and meaning of these prests and the sd in pt recited indre of lease and shall and will during the continuance of the sd term perform fulfil and keep all and singr the covts stipulations and agrts reserved and contd in the sd in pt recited indre of lease on the pt of the sd (lessee) his exs, &c. to be kept done and performed so far as such covts stipulations and agrts relate to or concern or ought to be kept done and performed in respect or on acct of the sd messe or tent and preses so purchased by the sd A B as afd *And of* from and agst all and evy neglect breach or deft which shall or may at any time or times hrafttr happen in the paymt or performance thereof resply shall and will save defend and keep harmless and indemnified the sd C D his exs ads and ass and his and their lds tents goods and chattels *And moreover* that in case the sd C D his exs or ass shall at any time or times hrafttr pay sustain or be put unto any sum or sums of money costs chas

Indemnity.

Clause of entry and distress.

and exps for or on acct or in respect of the sd yrly rent or sum of £ — or of the sd covts and agrts hnbefe tontd and agrd to be kept done and performed by the sd A B his exs, &c. as afd or any of them Then and in evy such case it shall be lful for the sd C D his exs ads or ass into and upon the sd messe or tent and preses so purchased by the sd A B and comprised in the sd in pt rected indre of assmment bearing date, &c. to enter and distrain for all and evy such sum and sums of money costs chas and exps which the sd C D shall sustain bear pay or be put unto and take lead drive carry away and impound and in pound detain and keep until the same sum and sums of money costs chas and exps whatsr sustained or occasioned by or attending the making taking and keeping any such distress or distresses shall be fully pd and satisfied And in deft of paymt thereof in due time after any such distress or distresses shall be made or taken to appraise sell or dispose of such distress or distresses according to due course of law in like manner as in case of distress taken for nonpaymt of rent reserved upon common leases To the intent that thby and therewith or orwise the sd C D his exs ads and ass shall and may be fully pd and satisfied all and evy such sum and sums of money costs chas and exps as afd And this Indre furr Witnesseth That in furr pursuance of the sd agrt and in conson of the covts and agrts hnbefe contd on the pt and behalf of the sd A B He the sd C D for himself his hrs, &c. doth hby covt, &c. with the sd A B in manner following that is to say That he the sd C D shall and will, &c. (as above, in respect to A B) In Witness, &c.

From
Legatees.

Further
Testatum.

Covenant from a Legatee on receiving a Sum of Money from the Executor on Account of his Legacy to execute a Release for the whole amount as soon as it shall be paid.

This Indre made, &c. Betn (legatee) of, &c. of the one pt and (executor) of, &c. of the or. pt Whas the sd (E) is the psl reptive of E F late of, &c. decd and the sd (L) in right of M his wife (late M F) one of the sisters of the sd (E) is entitled to a pt of the residue of the psl este of the sd E F decd as one of the legatees named in his will And whas the amount of the sd share of the sd (L) cannot be ascertained so that a discharge may be taken upon the proper legacy stamp And whas the sum of £ — hath this day been advanced by as the agent and on acct of the sd (E) on the condon that the sd (L) and M his wife shall deduct the sd sum

From of £ — out of the share of the sd (L) of and in the residue of the ps1 este of the sd E F decd Now, &c. and it is hby decld and agrd and the sd (L) doth hby for himself his hrs exs and wls covt, &c. with, &c. the sd (E) his exs and ads that the sd (L) and M his wife resply and their respive exs and ads shall and will allow the sd (E) his exs and ads to deduct and retain the sum of £ — out of the share of the sd (L) of and in the residue of the ps1 este of the sd E F decd And that on the payment of the residue of the same share they the sd (L) and M his wife resply and their respive exs and ads shall and will at their own costs and chas exte to the sd (E) his exs and ads a good and sufficient rele or or. discharge for the whole of the same share including the sd sum of £ — *In Witness, &c.*

Declaration and Deed of Covenants by Legatees as to their expectant Shares, in order to render them transmissible, as though actually vested.

This Indre made, &c. Betn C D of, &c. of the first pt G D of, &c. of the second pt and J D of, &c. of the third pt Whas N D late of, &c. decd father of the sevl pties hereto duly made and published his last will and testament in writing bearg date, &c. And after thby bequeathing sevl pecuniary legacies to the psns therein named the sd testator desired that all mos due to him which might not be realized at his dece might be collected in and vested in Govt or some or. secties and the yrlly produce which might arise from the same and all his or. property real and ps1 might be enjoyed had and taken during the life of his wife in manner therein mentd and all the remr of his property and ps1 este of whatsr kind or nature the sd testator then gave and bequeathed at his wife's dece to and among his four chn the sd C D, G D, J D and H D and to the survors of them in equal proportions share and share alike to be then sold divided or parted as they or the survors of them might agree upon the same the one having an equal share with the or. of them And the sd (T) appointed his sd wife and the sd C D exs of his sd will and the sd C D hath alone since duly proved the same will in the Prerogative Court of the archbishop of Canterbury And whas the sd H D is at present an infant under the age of 21 yrs but the sd pties hereto have resply attained the age of 21 yrs And whas it is apprehended that it may be doubtful whether the respive shares of C D, G D, J D and H D of and in the sd testator's residuary estate expectant upon the dece of

the testator's wife are vested or contingent And in order to obviate any such doubt the sd pties hereto as far as they are or may be resply interested have agrd to enter into the declaration and covt hereinafter expsd *Now this Indre witnesseth* That in pursuance of the sd agrmt and in conson of the preses it is hby decl'd and agrd by and betn the pties to these prests And each of them the sd C D, G D and J D doth hby for himself his hrs exs and ads and so far as he is interested in his share or may become interested in the share or shares of the or. or ors of them of and in the sd residuary este covt declare and agree with and to the or. or ors of them his and their hrs exs ads and ass that the reversionary or presumptive estes shares and ints of them the sd pties hereto resply of and in the residue and remr of the real and ps'l estes of the sd N D given and bequeathed as afd by the sd in pt recited will expectant upon the dece of the sd E the widow of the sd N D and all the shares and ints to which they may become resply entitled by virtue of the sd will of and in the sd residuary este upon the dece of the sd H D in the lifetime of the sd testator's wife shall be equally divided among the sd pties hereto and their hrs exs and ads as tenants in common and shall henceforth as to or betn the sd pties hereto resply their respive hrs exs and ads and so far as their ints resply in the sd real and ps'l este may extend be and be considered and deemed transmissible and vested shares and ints in them the sd pties hereto resply And shall and may be henceforth conveyed assigned and disposed of and descend in all respects in the same way and to the same extent as if the sd respive shares and ints were now vested And that they the sd pties hereto resply and their respive hrs exs ads or ass shall and will make do and exte or procure to be made done and exted all such furr and or. acts deeds declons assnmts conveyances and assurances in the law whater for the furr better more absolutely or satisfactorily confirming and establishing the covt and agrmt hnbeft contd and for assigning conveying and assuring the sd respive shares ints and preses according to the true intent and meaning of the same covt and agrmt and these prests as by the or. or ors of them resply or his or their respive hrs exs or ass shall be lfully and reasonably advised or required And each of them the sd C D, G D and J D doth hby for himself his hrs exs and ads and so far as concerns his own acts and deeds only covt and declare with and to the or. or ors of them resply that they resply have not at any time heretofore made

*From
Legatees.*

Between Mortgagee and Mortgagee. done committed exted or suffered any act matter or thing whatsr whby their respive estes shares or ints in the preses or any pt thof are is can shall or may be impeached asdd conveyed or in any wise incumbered howsr In Witness, &c.

Deed of Covenant on the Part of Mortgagees, to stand possessed of their Securities for the Benefit of the Person paying off a Part of the Debt; nevertheless, without Prejudice to the Right of the Mortgagee, to receive the Residue of his Debt in the first instance.

Recital of mortgage.

This Indre made, &c. Betn (executors) of, &c. the executors of (trustee for the mortgagees) late of, &c. decd of the first pt (mortgagees) of, &c. of the second pt mortgagor and M his wife of the third pt and C D of, &c. (the person paying off part of the debt) of the fourth pt Whas by indre of assignment bearing date on or about, &c. and made betn, &c. the sevl messes tents and hereds, &c. were assd to the sd (trustee) his exs, &c. for the residue of a term of yrs created by indre of pts bearing date, &c. And whas the sd last recited indre of mortgage was made subject to a proviso or agrmt for redemption of the sd messes, &c. and the residue of the sd term therein on payment by the psn or psns who for the time being shd be entitled to the revn, &c. of the sd messes, &c. immly expectant on the determination of the sd term unto the sd (trustee) his exs ads or ass of the sum of £ — with int for the same at the rate of £ — per cent. per ann. on a day menad in the sd indre and long since past And whas by a deed-poll or writing under the hand and seal of the sd (trustee) and bearing date, &c. the sd (trustee) decld the sd sum of £ — to have been the proper mos of the sd (mortgagees) and to have been advanced by them in equal portions And whas the sd (trustee) hath departed this life and the sd (executors) are his personal reptives And whas the sd principal sum of £ — is still due to the sd (mortgagees) under or by virtue of the sd mtge or secty made to the sd (trustee) as afd And upon the application and at the instance and request of the sd (mortgagor) and M his wife the sd C D hath consented and agrd to pay to the sd (mortgagees) the sum of £ — in pt of the sd principal sum of £ — upon the terms that after and subject to the paymt to the sd (mortgagees) their exs and ads the residue of the sd sum of £ — and the int due and to become due for the same residue and the costs chas and exps in regard to certain proceedings relating thereto the sd C D shall

Death of trustee.

Payment of part of principal debt by C D.

as to the sum of £ — and the int thof stand in the place of the sd (*mortgagees*) And as to the same sum of £ — and int be entitled to the full bent of the mtge or secty made to the sd (*mortgagees*) as afd *Now this Indre Witnesseth* that in conson of the sum of £ — of lful, &c. to the sd (*mortgagees*) in hand, &c. pd by the sd C D by and with the privity and consent of the sd (E) and at the instance and by the direction of the sd (*mortgagor*) testified by their exting these preats the rect of which the sd (*mortgagees*) and each of them do hby acknge and of and from, &c. It is hby deckd and agrd by and betn the sd (*mortgagees*) and (*mortgagor*) and M his wife and the sd C D and (E) do hby consent that henceforth and from time to time hbrafr the sd (E) their exs ads and ass shall stand and be possessed of the sd messes, &c. ased to the sd (*trustee*) for the residue of the sd term of yrs therein to come and unexpired *In Trust* in the first place for securing to the sd (*mortgagees*) their exs ads or ass in equal proportions the sum of £ — the remaining pt of the sd principal sum of £ — and the int henceforth to become due thereon And in the next place and in the mean time subject to the paymt of the sum of £ — and the int thof *In Trust* for securing to the sd C D his exs ads and ass the sum of £ — the or. pt or residue of the sd principal sum of £ — and the int henceforth to become due and paye for the same And also upon furr trust that when and as soon as the sd (*mortgagees*) their exs, &c. shall have recd and been satisfied or pd the sd sum of £ — and the int thof and the costs chas and exps as afd the sd (E) their exs, &c. shall assign the sd messes, &c. comprised in the sd term of yrs and ased to the sd (*trustee*) as afd unto the sd C D his exs ads and ass for all the residue of the sd term of yrs therein Subject to the same or like equity of redemption as the sd (E) their exs, &c. shall then hold the same And the sd (*mortgagees*) hby furr declare and the sd (*mortgagor*) and M his wife hby consent and agree that subject and witht prejudice to the right of the sd (*mortgagees*) their exs, &c. to recs the full sum of £ — and the int thof pt of the sd principal sum of £ — and the full bent of the sd secties as far as the same concern the sd sum of £ — and the int thof and the costs chas and exps as afd the sd sum of £ — or. pt and residue of the sd principal sum of £ — and the int thof and the full benefit of the sd secty as far as the same (subject and witht prejudice as afd) relates to or concerns the sd sum of £ — and the int thof shall henceforth belong to and be held in trust for the sd

*Between
Mortga-
gor and
Mortga-
ges.*

Executors
to stand
possessed
for residue
of term.

Upon trust.

To pay
mortgagees.

To secure
remainder
to C D.

Mortgagees
to receive
principal
and in-
terest.

From of £ — out of the share of the sd (L) of and in the residue of the psl este of the sd E F decd *Now, &c.* and it is hby decld and agrd and the sd (L) doth hby for himself his hrs exs and ads covt, &c. with, &c. the sd (E) his exs and ads that the sd (L) and M his wife resply and their respive exs and ads shall and will allow the sd (E) his exs and ads to deduct and retain the sum of £ — out of the share of the sd (L) of and in the residue of the psl este of the sd E F decd And that on the payment of the residue of the same share they the sd (L) and M his wife resply and their respive exs and ads shall and will at their own costs and chas exte to the sd (E) his exs and ads a good and sufficient rele or or. discharge for the whole of the same share including the sd sum of £ — *In Witness, &c.*

Declaration and Deed of Covenants by Legatees as to their expectant Shares, in order to render them transmissible, as though actually vested.

This Indre made, &c. Betn C D of, &c. of the first pt G D of, &c. of the second pt and J D of, &c. of the third pt Whas N D late of, &c. decd father of the sevl pties hereto duly made and published his last will and testament in writing bearg date, &c. And after thby bequeathing sevl pecuniary legacies to the psns therein named the sd testator desired that all mos due to him which might not be realized at his dece might be collected in and vested in Govt or some or. secties and the yrlly produce which might arise from the same and all his or. property real and psl might be enjoyed had and taken during the life of his wife in manner therein mentd and all the remur of his property and psl este of whatsr kind or nature the sd testator then gave and bequeathed at his wife's dece to and among his four chn the sd C D, G D, J D and H D and to the survors of them in equal proportions share and share alike to be then sold divided or parted as they or the survors of them might agree upon the same the one having an equal share with the or. of them And the sd (T) appointed his sd wife and the sd C D exs of his sd will and the sd C D hath alone since duly proved the same will in the Prerogative Court of the archbishop of Canterbury And whas the sd H D is at present an infant under the age of 21 yrs but the sd pties hereto have resply attained the age of 21 yrs And whas it is apprehended that it may be doubtful whether the respive shares of C D, G D, J D and H D of and in the sd testator's residuary estate expectant upon the dece of

the testator's wife are vested or contingent And in order to obviate any such doubt the sd pties hereto as far as they are or may be resply interested have agrd to enter into the declaration and covt hereinafter expssd *Now this Indre witnesseth* That in pursuance of the sd agrmt and in conson of the preses it is hby declid and agrd by and betn the pties to these prests And each of them the sd C D, G D and J D doth hby for himself his hrs exs and ads and so far as he is interested in his share or may become interested in the share or shares of the or. or ors of them of and in the sd residuary este covt declare and agree with and to the or. or ors of them his and their hrs exs ads and ass that the reversionary or presumptive estes shares and ints of them the sd pties hereto resply of and in the residue and remr of the real and psl estes of the sd N D given and bequeathed as afd by the sd in pt recited will expectant upon the dece of the sd E the widow of the sd N D and all the shares and ints to which they may become resply entitled by virtue of the sd will of and in the sd residuary este upon the dece of the sd H D in the lifetime of the sd testator's wife shall be equally divided among the sd pties hereto and their hrs exs and ads as tenants in common and shall henceforth as to or betn the sd pties hereto resply their respive hrs exs and ads and so far as their ints resply in the sd real and psl este may extend be and be considered and deemed transmissible and vested shares and ints in them the sd pties hereto resply And shall and may be henceforth conveyed assigned and disposed of and descend in all respects in the same way and to the same extent as if the sd respive shares and ints were now vested And that they the sd pties hereto resply and their respive hrs exs ads or ass shall and will make do and exte or procure to be made done and exted all such furr and or. acts deeds declons assnmts conveyances and assurances in the law whatsr for the furr better more absolutely or satisfactorily confirming and establishing the covt and agrmt hnbeft contd and for assigning conveying and assuring the sd respive shares ints and preses according to the true intent and meaning of the same covt and agrmt and these prests as by the or. or ors of them resply or his or their respive hrs exs or ass shall be lfully and reasonably advised or required And each of them the sd C D, G D and J D doth hby for himself his hrs exs and ads and so far as concerns his own acts and deeds only covt and declare with and to the or. or ors of them resply that they resply have not at any time heretofore made

*From
Legatees.*

Between Mortgagor and Mortgagee. done committed exted or suffered any act matter or thing whatsr whby their respive estes shares or intes in the preses or any pt thof are is can shall or may be impeached asnd conveyed or in any wise incumbered howsr In Witness, &c.

Deed of Covenant on the Part of Mortgagees, to stand possessed of their Securities for the Benefit of the Person paying off a Part of the Debt; nevertheless, without Prejudice to the Right of the Mortgagee, to receive the Residue of his Debt in the first instance.

Recital of mortgage.

This Indre made, &c. Betn (executors) of, &c. the executors of (trustee for the mortgagees) late of, &c. decd of the first pt (mortgagees) of, &c. of the second pt mortgagor and M his wife of the third pt and C D of, &c. (the person paying off part of the debt) of the fourth pt *Whas* by indre of assignment bearing date on or about, &c. and made betn, &c. the sevl messes tents and heredita, &c. were asnd to the sd (trustee) his exs, &c. for the residue of a term of yrs created by indre of pts bearing date, &c. *And whas* the sd last re-

Death of trustee.

cited indre of mortgage was made subject to a proviso or agrmt for redemption of the sd messes, &c. and the residue of the sd term therein on payment by the pen or psns who for the time being shd be entitled to the revn, &c. of the sd messes, &c. immly expectant on the determination of the sd term unto the sd (trustee) his exs ads or ass of the sum of £ — with int for the same at the rate of £ — per cent. per ann. on a day mentd in the sd indre and long since past *And whas* by a deed-poll or writing under the hand and seal of the sd (trustee) and bearing date, &c. the sd (trustee) decld the sd sum of £ — to have been the proper mos of the sd (mortgagees) and to have been advanced by them in equal portions *And whas* the sd (trustee) hath departed this life and the sd (executors) are his personal reptives

Payment of part of principal debt by C D.

And whas the sd principal sum of £ — is still due to the sd (mortgagees) under or by virtue of the sd mtgs or secty made to the sd (trustee) as afd *And upon* the application and at the instance and request of the sd (mortgagor) and M his wife the sd C D hath consented and agrd to pay to the sd (mortgagees) the sum of £ — in pt of the sd principal sum of £ — upon the terms that after and subject to the paymt to the sd (mortgagees) their exs and ads the residue of the sd sum of £ — and the int due and to become due for the same residue and the costs chas and exps in regard to certain proceedings relating thereto the sd C D shall

as to the sum of £ — and the int thof stand in the place of the sd (*mortgagees*) And as to the same sum of £ — and int be entitled to the full bent of the mtge or secty made to the sd (*mortgagees*) as afd Now this *Indre Witnesseth* that in conson of the sum of £ — of lful, &c. to the sd (*mortgagees*) in hand, &c. pd by the sd C D by and with the privy and consent of the sd (E) and at the instance and by the direction of the sd (*mortgagor*) testified by their exting these preats the rect of which the sd (*mortgagees*) and each of them do hby acknge and of and from, &c. It is hby dectd and agrd by and betn the sd (*mortgagees*) and (*mortgagor*) and M his wife and the sd C D and (E) do hby consent that henceforth and from time to time krafr the sd (E) their exs ads and ass shall stand and be possessed of the sd messes, &c. asad to the sd (*trustee*) for the residue of the sd term of yrs therein to come and unexpired *In Trust* in the first place for securing to the sd (*mortgagees*) their exs ads or ass in equal proportions the sum of £ — the remaining pt of the sd principal sum of £ — and the int henceforth to become due thereon And in the next place and in the mean time subject to the paymt of the sum of £ — and the int thof *In Trust* for securing to the sd C D his exs ads and ass the sum of £ — the or. pt or residue of the sd principal sum of £ — and the int henceforth to become due and paye for the same And also upon furr trust that when and as soon as the sd (*mortgagees*) their exs, &c. shall have recd and been satisfied or pd the sd sum of £ — and the int thof and the costs chas and exps as afd the sd (E) their exs, &c. shall assign the sd messes, &c. comprised in the sd term of yrs and asad to the sd (*trustee*) as afd unto the sd C D his exs ads and ass for all the residue of the sd term of yrs therein Subject to the same or like equity of redemption as the sd (E) their exs, &c. shall then hold the same And the sd (*mortgagees*) hby furr declare and the sd (*mortgagor*) and M his wife hby consent and agree that subject and witht prejudice to the right of the sd (*mortgagees*) their exs, &c. to rece the full sum of £ — and the int thof pt of the sd principal sum of £ — and the full bent of the sd secties as far as the same concern the sd sum of £ — and the int thof and the costs chas and exps as afd the sd sum of £ — or. pt and residue of the sd principal sum of £ — and the int thof and the full benefit of the sd secty as far as the same (subject and witht prejudice as afd) relates to or concerns the sd sum of £ — and the int thof shall henceforth belong to and be held in trust for the sd

*Between
Mortga-
gor and
Mortga-
gee.*

Executors
to stand
possessed
for residue
of term.

Upon trust.

To pay
mortgagees.

To secure
remainder
to C D.

Mortgagees
to receive
principal
and in-
terest.

*Between
Mortga-
gor and
Mortga-
gee.*

Done no
act to en-
cumber.

C D his exs ads and ass And each and evy of them the sd (E) (*mortgagees*) and (*mortgagor*) doth hby each for himself resply and his respive hrs exs ads and ass and as to and concerning only the acts deeds and defts of himself resply and his respive hrs exs, &c. covt declare and agree with and to the sd C D his exs ads and ass that they the sd (E) (*mortgagees*) and (*mortgagor*) have not at any time heretofore made done exted committed or willingly or knowingly suffered and that they resply and their respive exs ads or ass shall not nor will at any time hrafr make do, &c. any act, &c. whby or by reason, &c. whereof the right of the sd C D his exs, &c. to all or any pt of the sd sum of £ — and the int thenceforth to become due for that sum or any pt thof resply may be impeached charged incumbered or affected in any manner hower *In Witness, &c.*

Covenant by Mortgagee on a Mortgagor conveying the Equity of Redemption to a Person to accept Payment of the Mortgage Debt when tendered, and execute a Conveyance.

Recital of
mortgage.

This Indre made, &c. Betn (mortgagee) of, &c. of the first pt (mortgagor) of, &c. of the second pt and A B of, &c. of the third pt Whas by indres of lease and rele and assnmt the lease bearing date the and the rele and assignmt bearing date resply the and the all those freehold and copyhold lds and heredit and also all those leasehold lds, &c. were resply reld covenanted to be surrendered and assd by the sd (mortgagor) to the sd (mortgagee) his hrs, &c. by way of mortge for securing the sum of £ — and int And whas the sd sum of £ — and £ — for an arrear of int are now due and owing to the sd (mortgagee) on the sd recited secty And whas by indre of lease and rele and assnmt the lease bearing date the day of and the rele bearing even date with these prests and made betn the sd (mortgagor) of the one pt and the sd A B and C D of the other pt All and singr the sd freehd copyhd and leasehd lds togr with or leasehold lds with all and singr their rights members and appts were and are reld covtd to be surrendered and assd to the sd A B and C D their hrs exs ads and ass for all the este and int of the sd (mortgagor) in the same lds resply And whas the sd (mortgagee) is desirous of assisting and promoting the sd intended sale and hath agrd to accept and take the principal money and int due and to grow due on the sd hnbeft recited mtge and secty made to him as afd when and as soon as the

same shall be pd to him his exs ads or ass and also to exte a conveyance surrender and assnmt of the sd freehd copyhd and leasehd hereids and preses to the sd A B and C D *Now this Indre Witnesseth* that the sd (mortgagee) in furr pursuance of the sd in pt recited agrmt *Doth* for himself his hrs exs and ads at the instance and request and by the direction and apptmt of the sd (mortgagor) covt and agree with the sd (mortgagor) his hrs exs ads and ass that he the sd (mortgagee) his hrs exs ads or ass or some or. one of them when and as soon as the principal sum of £ — and all int secured on the habefe recited mtge made to the sd (mortgagee) as afid shall be pd to the sd (mortgagor) his hrs exs ads or ass shall and will accept the same and upon the request and at the costs and chas of the trust estate of the sd (mortgagor) shall and will upon paymt or tender of the sd principal mos and int make sign seal exte and deliver a conveyance surrender and assnmt of the sd freehd copyhd and leasehd lds tents and hereids and all and singr or. the preses habefe mentd and parlarly described resply unto the sd A B and C D their hrs exs ads and ass or to whom they shall direct or appt free and absolutely discharged of and from all chas and incumbs with which the same lds and preses have been or shall or may be charged in any manner by the sd (mortgagee) his hrs exs ads or ass or any or either of them *In Witness, &c.*

*Between
Mortga-
gor and
Mortga-
gee.*

Deed of Covenants between a Mortgagor and Mortgagee, on the latter having purchased a certain Sum in the Stocks to be lent to the Mortgagor, as soon as he has made a good Title to his Estate.

This Indre made, &c. Betw A B of, &c. of the one pt and C D of, &c. of the or. pt Whas the sd C D having occasion for the sum of £ — hath applied to and requested the sd A B to advance and lend him the same which he hath consented to do upon having the repayment of the same secured to him by a mtge in fee of a sufficient pt of the este of the sd C D situate at in the co of *And whas* the sd C D hath consented and agrd to exte a good and sufficient mtge as soon as the same can be effectually made of such pt of his sd este as shall be approved by the sd A B *And whas* the sd A B hath on the day of at the request of the sd C D laid out the sum of £ — in the purchase of £ — 3 per cent. consolidated Bank annities now standing in the name of him the sd A B in the bks of the Gov. and Compy of the Bk of Engl *And whas* the sd A B and

*Between
Mortga-
gor and
Mortga-
gee.*

Testatum.

Covenant
to make out
title.

To pay
expenses.

To make
loss in in-
vesting, &c.
stock.

C D have agrd to enter into the covts and agrts hnafter
contd on their resptive pts *Now this Indre Witnesseth*
That in conson of the sum of £ — so laid out by the
sd A B in purchasing the sum of £ — 3 per cent., &c.
at the request of the sd C D testified by his being a pty
to and signing and sealing these prests and also in con-
son of the covts hnafter contd on the pt and behalf of
the sd A B he the sd C D for himself his hrs exs and
ads doth covt, &c. with, &c. the sd A B his exs ads and
ass by these prests in manner following that is to say
That he the sd C D shall and will with all convenient
speed after the exon of these prests at his own expense
make out and deliver to the sd A B his exs, &c. or his
or their atties or agents a full abstract of the title of
him the sd C D to the inhance in fee simple in posson
free from all incumbs of in and to a sufficient extent of
land and hereds situate at in the co of to be
approved by the sd A B his, &c. And that he the sd
C D shall or will with all convenient speed after the
title of such property shall be approved by the sd A B
his exs, &c. or his or their counsel in the law make exte
and deliver a good and sufficient mtge in fee of the
property so agrd on or approved by the sd A B unto
the sd A B his hrs and ass for securing to him the sd
A B his exs ads and ass the repayment of the sum of
£ — of lful, &c. Togr with int for the same after the
rate of 5l. for evy 100l. for a yr on the day of
next ensuing such int to commence from the day of
now last past And furr that he shall and will on
exting such mtge pay satisfy and discharge all such
costs chas and exps as shall be incurred and sustained
by the sd A B in or about these prests and the in-
vestigating the title to the sd preses or the prepar-
ing or perfecting the title to the sd preses or the pre-
paring and perfecting such mtge as also the expense
of transferring the sd sum of £ — 3 per cent., &c. or
in or about the selling the same and converting the
same into money And also that in case the sd C D
shall neglect or fail to make out a good and satisfactory
title to a sufficient extent of lands and hereds at
as afd or shall be unable or omit to make and deliver
such mtge as afd within the space of calr mths after
the exon of these prests then and in such case that
he the sd C D shall and will immediately after the
expiration of the sd calr mths pay satisfy and
discharge all such costs chas and exps as shall be in-
curred or sustained by the sd A B in or about these
prests as afd and also all such costs, &c. as shall be
incurred or occasioned by the investing the sd sum of

£ — and selling and converting the same into money as afd And also all such deficiency if any as shall arise in replacing the sd principal sum of £ — and repaying the sd A B his exs ads and ass And furr that in case the sd mtge shall not be completed and the sd sum of £ — 3 per cent., &c. shall sell for more than the sum of £ — then and in such case such surplus shall go and belong to the sd A B his exs, &c. And this Indre furr Witnesseth That in furr pursuance of the sd agrt and in conson of the covts and agrts hnbefe contd on the pt and behalf of the sd C D he the sd A B doth hby for himself his exs and ads covt, &c. with, &c. the sd C D in manner following that is to say That he the sd A B shall and will immly on the exon and delivery of the sd mtge so covtd to be made to him as afd and on payment of the costs chas and exps as afd pay or transfer to the sd C D his exs, &c. the sd sum of £ — 3 per cent., &c. togr with all the divds due on the sd sum of £ — And it is hby mutually agrd and decld by and betn the pties to these prests that on the completing and perfecting of the sd mtge to the sd A B for securing the sd sum of £ — and int the sd sum of £ — 3 per cent., &c. or the proceeds arising from the sale thof and all divds and int which shall be recd thereon in the mean time until such transfer or sale shall be transferred to and accepted by the sd C D his exs and ads as and for the acct of the sd mtge And in case the sd mtge shall be completed he the sd C D his exs ads or ass shall in such case have and be entitled to all the bent and advantage arising from any advance in the price of the sd sum of £ — 3 per cent., &c. and shall also in that case run the risk and bear the loss which may arise from any fall in the price of the sd sum of £ — 3 per cent., &c. In Witness, &c.

Between Mortgagor and Mortgagee.

Mortgagee to have surplus on sale of stock.

Further testament.

Covenant from mortgagee.

To transfer stock.

To allow mortgagor the dividends.

And surplus, if any, on sale.

Deed of Covenants and a Declaration that two Surrenders and a Bond were made to a Person only for securing a sum of Money.

This Indre made, &c. Betn (mortgagor) of, &c. of the one pt and (mortgagee) of, &c. of the or. pt Whas by a memorandum in writing bearing date on or about the day of 18 purporting to be and being a surrender of the copyhd lds and hereds hnaft described the sd (mortgagor) Did surrender into the hands of the lord of the Manor of F in the co. of by the acceptance of I H and T R two of the tenants of the sd manor according to the custom thof All those, &c. to the use of the sd (mortgagee) his hrs,

Recital of surrender out of court.

&c. *And whas* by another memorandum in writing,
 &c. (recite another surrender of other copyhold lands)
And whas (recite bond) *And whas* the sd two surren-
 ders and the sd bond were so made and given to the sd
 (mortgagee) as afd only for securing the paymt to him
 the sd (mortgagee) his exs ads or ass of the principal
 sum of £ — lent and advanced to complete the pur-
 chase of the preces comprised in the sd surrenders
 Now this *Indre Witnesseth* and the true intent and
 meaning of the sd in pt recited indres and bond and of
 the parties to the same is hby decld to be and the sd
 (mortgagee) doth hby for himself his hrs exs ads and
 ass declare and agree with and to the sd (mortgagor)
 his hrs and ass that if the sd (mortgagor) his exs ads or
 ass do and shall well and truly pay or, &c. unto the sd
 (mortgagee) his exs, &c. the sum of £ — on the day
 of next ensuing the date of these prests witht any
 deduction or abatement whatsr for or on acct of any taxes
 chas or assessments or any or. matter or cause whatsr
 Then and from thenceforth he the sd (mortgagee) his
 hrs or ass shall and will at the request costs and chas
 of the sd (mortgagor) his hrs or ass well and effectually
 surrender convey and assure all and singr the sd messes
 surrendered to the sd (mortgagee) as afd with the appts
 unto and to the use of the sd (mortgagor) his hrs and
 ass according to the custom of the sd manors resply for
 ever or unto such pan or pens and for such este or estes
 as he the sd (mortgagor) or his hrs or ass or his or their
 counsel in the law shall advise and require free from all
 incumbs made done or committed by the sd (mortgagee)
 his hrs or ass in the mean time And that from and
 after full paymt of the sd sum of £ — and int thof
 and until such surrenders conveyances and assurances
 as afd he the sd (mortgagee) his hrs and ass shall and
 will stand seised and possessed of all and singr the sd
 messes, &c. with the appts *In Trust* to and for the
 use bent and behoof of him the sd (mortgagor) his hrs
 and ass and to and for no or. use intent or purpe whatsr
And also that the sd in pt recited surrenders and bond
 are a collateral secty for the paymt of only one and the
 same principal sum of £ — *And* the sd (mortgagor)
 for himself his hrs exs and ads doth hby covt, &c. with,
 &c. the sd (mortgagee) his exs ads and ass that he the
 sd (mortgagor) his exs or ads shall and will well and
 truly pay or, &c. unto the sd (mortgagee) his exs ads or
 ass the sd principal sum of £ — and int on the day and
 in the manner hnbefe apptd for the paymt of the same
Provided always and it is hby decld and agrd by and
 betn the pties to these prests that in the mean time

Another
surrender.

Testatum.

Covenant
from mort-
gages.

Covenant
to pay
mortgage
money.

Mortgagor
to retain

and until deft shall happen to be made in paymt of the sd sum of £ — and int or of some pt thof at the time hnbe mentd for paymt of the same it shall and may be lful to and for the sd (*mortgagor*) his hrs and ass peaceably and quietly to enter into have hold occupy and enjoy all and singr the messes, &c. surrendered to him the sd (*mortgagee*) as afd and to rece the rents issues and prfts to and for his and their own use and bent witht any let suit trouble interruption or eviction of or by the sd (*mortgagee*) his hrs or ass or any of them and witht any acct to be had or given for the same rents issues and prfts to the sd (*mortgagee*) his hrs or ass or any of them *In Witness, &c.*

To produce Title Deeds.

possession until default.

Deed of Covenant for the Production of Title Deeds.

This Indre made, &c. Betn A B of, &c. of the one pt and C D of, &c. of the or. pt Whas by indres of lease and rele bearing date respily the, &c. the rele being made betn, &c. in conson of the sum of £ — pd by the sd C D to, &c. All those, &c. togr with the rights members and apts thereof being Lot 3 of certain estes belonging to I C as assignee of the este and effects of W B of, &c. a bankrupt put up to sale by public auction at, &c. on the day of were conveyed and assured unto and to the use of the sd C D his hrs and ass as therein mentd And whas the several deeds papers and writings mentd or enumerated in the schedule hereunder written are now in the custody of the sd A B and relate to the title of the sd messes or tents and preses hnbe described And also to the manor of W in the county of S and also to a certain messe farm lds tithes and hereds situate lying and being in the township of W afd now in the posson or occupation of R B his undertenants and ass being Lot 1 of the sd hereds advertised to be sold at the time and place beforementd and which was purchased by the sd A B And whas the sd A B hath agrd to enter into such covenants with the sd C D for the production of the sd deeds papers and writings as hnaft mentd Now this Indre Witnesseth That in conson of the preses and of 10s. of, &c. to the sd A B in hand pd by the sd C D at, &c. the rect, &c. he the sd A B for himself his hrs exs and ads doth hby covt promise and agree to and with the sd C D his hrs and ass in manner following that is to say That he the sd A B his exs ads or ass or some or one of them (unless hindered or prevented by fire or some or. inevitable accident which may happen to the sd deeds paper and writings) shall and will at any time or times hraft upon evy reasone

Recital of sale.

Title deeds in the possession of a trustee.

To pro-
duce Title
Deeds.

request and at the costs and chas of the sd C D his hrs and ass produce and shew forth in Engld and not elsewhere unto the sd C D his hrs or ass or the owner or owners for the time being of the sd messe or tent with pieces or pcls of land heredita and preses conveyed and assured unto and to the use of the sd C D his hrs and ass as afd or to their attorney solicitor agent or counsel or any of them or to any or. pen or pens whom they or any of them shall direct or appt or to or before any court or courts of law or equity or at or upon any trials or hearings or commissions for the examination of witnesses or orwise as occasion shall be or require the sevl deeds papers and writings mentd and enumerated in the hereunder written schedule for the proof and manifestation support or defence of the title of the sd C D his hrs or ass or of such owner or owners as last mentd of in or to the sd last mentd messe or tent mill pces or pcls of ld heredita and preses And that he the sd A B shall not nor will at any time hraftir wilfully deface cancel or obliterate the same deeds papers and writings or any of them And also that he the sd A B his hrs exs ads or ass or some or one of them shall and will from time to time and at all times upon request for that purpe (unless hindered or prevented by fire or or. inevitable accident as afd) give or deliver unto the sd C D his hrs or ass or such owner or owners as last mentd but at the proper costs and chas of the pen or pens requesting the same a fair true attested or unattested copy of all or any pt of each or any of the same deeds papers and writings and suffer such copies or extracts to be examined and compared with the originals either by the sd C D his hrs or ass or the same owner or owners or any pen or pens whom he or they shall appt *In Witness, &c.*

Covenant to stand seised to Uses.

Definition.

Obs. 1. A covenant to stand seised to uses is an instrument of common assurance, by which a man seised of lands, &c. covenants, in consideration of blood or marriage, that he will remain seised to the use of his child, wife, or relation, for life, in tail, or in fee, Shep. Touch. Prest. Ed. 63; 2 Saund. Uses, 78. It must be by a person seised of lands and tenements, and, consequently, cannot embrace an equity or right; Watk. Pr. Conv. Prest. Ed. 198. It must also be in consideration of blood or marriage, for a covenant to stand seised to the use of a stranger would be void, Watk. Pr. 129; or of an illegitimate child, Shep. Pr. 65. It must not be in consideration of money, for that would be a bargain and sale if indented and inrolled, otherwise nothing would pass, Shep. Pr. 64, 65. It cannot be by a corporation, for a corporation cannot be

Consideration.

seized to a use; or by tenant in tail, except as to his own life, Watk. Pr. 198. Likewise nothing will pass by it but what can be conveyed by a use, consequently no chattel interest can be the subject of this conveyance, 7 Bac. Abr. *Uses* [E. 2] 97. As soon as the use is raised, the statute immediately executes the estate, and the party to be benefitted is put at once into possession, in the same manner as in a bargain and sale, except that it requires no enrolment, Shep. Pr. 67, Watk. Pr. 200.

*To stand
seised to
Uses.*

2. The proper word is covenant, but other words may be tantamount; as if a person bargain and sell in consideration of blood or marriage, Watk. Pr. 200. It is not necessary that the consideration of blood be expressed; if a person covenant to stand seised to the use of a wife, son, or the like, it will be sufficient, *Id.* 199.

*Operative
words.*

This Indre made, &c. Betw A B of, &c. of the one pt and C B one of the children, &c. (as the case may be) of the or. pt Whas the sd A B, &c. (recite seisin) Now, &c. in consen of the natural love and affection which the sd A B hath and beareth toward the sd C B and as a provision for him in life hfrafr and for or. good and valuable consens him thereunto moving He the sd A B for himself and his hrs doth covt declare and agree to and with the sd C B and his hrs and by these preests expesly grant and warrant unto him the sd C B and his hrs That the sd A B and his hrs shall and will from henceforth stand and be seised of and in All, &c. (parcels) or howsr orwise the sd messes lds tents hereditas and preses or any of them now are or is or heretofore have or hath been situated tenanted called known or described Togr with all houses, &c. And all and all manner of rights privileges easements advantages emoluments appendages and appts whatsr to the sd messes lds, &c. belonging or in any wise appertaining or with the same holden used occupied or enjoyed and of or in the revn, &c. To the Use and behoof of the sd C B his hrs and ass for ever (or the hrs of the body of the sd C B lfully begotten) and for deft of such issue to the use and behoof of the rightful hrs of him the sd C B for ever (or otherwise as in a formal settlement) Provided always and it is hby declid and agrd by and betw the sd A B and C B that it shall be lful for the sd A B at any time hfrafr by any deed or writing under his hand and seal to be by him sealed and delivd in the presence of two or more credible witnesses or by his last will and testmt in writing duly exted and attested to revoke and make void all or any of the uses trusts limitations and estes hnbefe declid created or expsed either wholly or in pt and in such manner and form as the sd A B shall think proper any thing in these preests contd to the contrary thereof notwithstanding In Witness, &c.

*Recitals.
Testatum.
Consideration.*

*Covenant
to stand
seised.*

*Power of
revocation.*

To Surrender.

On Consideration of an Annuity, and Covenant to pay the Same.

This Indre made, &c. Betn (surrenderor) of, &c. of the one pt and (surrenderer) of, &c. of the or. pt Whas the sd (surrenderor) is seised to him and his ass for and during the term of his natural life of and in a messe or tent farm and preses with the appts thereunto belonging now in the tenure or occupation of, &c. and let for the sum of £ — and also of two closes of land called and now in the tenure and occupation of the sd (surrenderer) And whas the sd (surrenderer) and S his wife daur of the sd (surrenderor) are entitled in her right to the reversion in fee of and in the sd preses expectant on the death of the sd (surrenderor) And whas the sd (surrenderor) hath agrd with the sd (surrenderer) that he the sd (surrenderer) shall enter immly into and upon the sd messe or tent and preses above-mentd in consideration of the yrlly sum of £ — to be pd to him the sd (surrenderor) during the term of his natural life by the sd (surrenderer) Now this Indre Witnesseth That in conson of the covt hnafttr contd on the pt and behalf of the sd (surrenderer) He the sd (surrenderor) doth hby covt promise and agree with and to the sd (surrenderer) that he the sd (surrenderer) his exs ads and ass shall and may immly enter into and upon the sd messe and tent farm, &c. above-mentd and peaceably and quietly have hold possess and enjoy the same and evy pt thof during the natural life of him the sd (surrenderer) witht any let suit interruption disturbance or eviction of him the sd (surrenderer) or his ass or any or. psn or psns whomsr lfully claiming or to claim by from or under him them or any of them or by through or with his their or any of their consent means or procurement And the sd (surrenderer) in conson of the preses doth hby for himself his hrs exs and ads covt promise and agree with and to the sd (surrenderor) his exs ads or ass that he the sd (surrenderer) shall and will well and truly pay or cause to be pd unto the sd (surrenderor) and his ass for and during the term of his natural life for so long time as he the sd (surrenderor) shall permit him the sd (surrenderer) his exs or ads quietly and peaceably to hold and enjoy the sd messe, &c. with the appts according to the covt above-mentd for that purpe the yrlly sum of £ — of, &c. the same to be pd on the day of and the day of in evy yr the first paymt thof to begin and be made on the day of next ensuing witht making any abatement or deduction whatsr In Witness, &c.

Deed of Covenants by the Vendors of Four-fifths of a Copyhold Estate for the Title, and that the Owner of the remaining Fifth shall convey, and by the Purchaser respecting the Payment of Part of the Purchase Money. *Between Vendor and Purchaser.*

Obs. As to the enrolment, &c. of this deed, under the 3 and 4 W. IV. see *Fines and Recoveries*, Pref. § 8, and *Precedents of Copyholds*.

This Indre made, &c. Betw (vendors) of, &c. of the one pt and (purchaser) of, &c. of the or. pt *Whas at a court baron holden in or for the manor of S in the co. of N on or about the day of 18 it was found by the homage that M G then of and since decl did on or about the day of then last past surrender certain messes or tents thin mentd (among which are included the heredit hnafr described) with the apts To the use of the sd G M and his ass for his life with remr to L his wife for her life in lieu of dower with remr to the use of his chn by his sd wife as tenants in common in tail male And in deft of such issue to the sd M G his hrs and ass for ever according to the custom of the sd manor And thereupon at that sd court the sd M G was then admitted to the sd preses And whas the sd M G the surrenderor named in the sd in pt recited surrender and the sd L his wife have resply departed this life leaving five chn and no more that is the sd M G pty hereto H G, I G, L G, and N G, all of whom have resply attained their age of 21 yrs And whas the sd H G hath departed this life witht having suffered a common recovery of the sd undivided fifth pt to which he was entitled of and in the sd copyhold heredit leaving H G his son and heir an infant of the age of yrs And whas (recite Recovery suffered by M G, &c.) of their four respive fifth pts and their admission And whas the sd (vendors) did cause the entirety of the messes or tents and heredit comprised in the sd recited surrender to be put up to sale by public auction on the day of at in 3 lots pursuant to printed parlars and condons of sale published previously to such sale at which auction or sale the sd (P) being the highest bidder was decld to be the purchaser of Lot 1 in such parlars of sale comprising the messe or tent and preses hnfr described subject to the paymt of an annual quitrent of and a fine certain on admission of one yrs quitrent at or for the price or sum of, &c. And whas it is stated in the parlars of sale that the entirety of the este descended in five equal pts and one of the pties being then a minor of the age of yrs the or. four proprietors would surrender their int and enter into an absolute covt with the purchaser at their exps*

Recital of surrender of copyholds.

Death of surrenderor

Death of one of the children leaving a son an infant.

Common recovery. Sale by auction.

Agreement that infant should convey his one-fifth on coming of age.

*Between
Vendor
and Pur-
chaser:*

that the remaining fifth pt shd likewise be surrendered when such minor shd attain the age of 21 yrs till which time one-fifth pt of the purchase-money shd remain in the hands of the purchaser the paymt of which was to be fully secured and provided for immly on such surrender as well as legal int in the mean time And it is also stated that the whole este being chargeable with the paymt of a sum of money not exceeding £ — to the hamlet of H this sum was to be divided and charged equally upon Lots 1, 2, and 3. And it is also stated in the afd parlars that the whole of the property comprised in the three lots was then held by Mr. J. W. for an unexpired term of yrs from the day of at the clear yrly rent of £ — by one lease of which rent the purchaser of Lot 1 was to be entitled to £ — the purchaser of Lot 2 to £ — and the purchaser of Lot 3 to £ — And that such lease contd a covenant on the pt of the lessee to pay the annual sum abovementd to the sd hamlet of H And *whas* the sd (P) previously to the exon of these prests hath pd to the sd (V) the sum of £ — of, &c. being four-fifth pts of the sd purchase-money or sum of £ — which the sd (V) do hby resply acknge And *whas* at a ct baron holden in and for the sd manor of S upon the day of the date of these prests the sd (V) have surrendered by the rod into the hands of the lord of the sd manor according to the custom thereof All those four undivided fifth parts or shares of and in all, &c. with the appts To the use of the sd (P) his hrs and ass according to the custom of the manor subject to the sd annual quitrent of and to the afd lease under the apportioned rent of £ — and subject also to the sd annual sum not exceeding £ — paye to the sd hamlet of H to which sd four-fifth pts of, &c. the sd (P) was at the same time admitted Now, &c. in con-son of the sd sum of £ — so pd to the sd (V) as afd each of them the sd (V) doth hby for himself his hrs, &c. and so far as concerns the one-fifth pt of him surrendered as afd of and in the sd messe, &c. hnbeffe described and the este right title quiet enjoyment and furr assurance of the same one-fifth pt or share covt, &c. with and to the sd (P) his hrs and ass in, &c. That for and notwithstanding, &c. any act deed matter by the sd (V) or any of them or the sd H G decd made done, &c. They the sd (V) at the time of the sd surrender were seised of the sd four-fifth pts or shares so surrendered as afd of and in the sd messe, &c. and hereds hnbeffe described of an absolute este of inance according to the custom of the manor witht any manner of condon, &c. (see Release) &c. to alter change revoke, &c. And for and notwith-

Payment of
four-fifth
parts of
purchase-
money.
Surrender
to pur-
chaser.

Testatum.

That ven-
dors were
seised of
four-fifths
of, &c.

Have good
right to sur-
render.

standing, &c. they the sd (*V*) have in themselves good right to surrender the sd four-fifth pts or shares of and in the messes, &c. hnbefe described with the appts to the use of the sd (*P*) his hrs and ass in manner afd and according to the true intent and meaning of the sd surrender And furr that it shall be lful for the sd (*P*) his hrs and ass, &c. (Covt for quiet enjoyment agst the four vendors or any one claiming under them or under the sd H G deed, see *Release*) And that free and clear, &c. of and from and agst all and all manner of former grants, &c. chas and incumbrances whatsr had made done committed or suffered by the sd (*V*) and H G deed or any of them or any psn or psns claiming or to claim by from through under or in trust for them or any of them (except the rents fines and services henceforth to become due or be performed in respect of the sd four-fifth pts of the sd hereds to the lord or lords lady or ladies of the sd manor And moreover that they the sd (*V*) and every of them their and evy of their hrs and every or. psn having or lfully or equitably claiming or who shall or may lfully or equitably claim any este right title trust or int in to or out of the sd four-fifth pts or shares of and in the sd messe, &c. or any pt thof by from through under or in trust for them or any of them or the sd H G deed shall and will from time to time and at all times hrafr upon evy rease request and at the proper costs and chas in the law of the sd (*P*) his hrs or ass make do and exte or cause to be, &c. for the better, &c. conveying, &c. all such furr and or. acts, &c. the sd messe, &c. with the appts (subject as afd) To the use of the sd (*P*) his hrs and ass for ever To be held of the Lord or, &c. of the sd manor of S, &c. as by the sd (*P*) his hrs or ass or his or their counsel in the law shall be reasonably advised or devised and required So as no such furr assurance or assurances contain or imply any furr or or. warranty or covt than agst the psn or psns who shall be required to make and exte the same and his or her hrs exs and ads acts and deeds only And so that the psn or psns, &c. (see *Release*) And this Indre furr Witnesseth That in furr compliance with the sd in pt recited condons of sale and in conson of the sum of £ — being the remaining pt of the sd purchase money or sum of £ — hnbefe covenanted to be pd by the sd (*P*) They the sd (*Inf*) and (*V*) for themselves jtly and severally and for their respive hrs exs and ads Do and each of them Doth covt promise and agree with and to the sd (*P*) his hrs and ass That the sd (*Inf*) shall and will immly after he shall attain the age of 21 yrs or in case of his death under that age

Between Vendor and Purchaser.

For quiet enjoyment.

Free from incumbrances.

For further assurance.

Further Testatum.

Covenant that infant shall surrender, &c.

*Between
Vendor
and Pur-
chaser.*

*Purchaser
to pay re-
mainder of
purchase-
money:*

*and interest
in the mean
time.*

Then the issue in tail (if any) of the sd H G decd but failing such issue Then any psn who is or shall be a necessary or proper pty shall and will immly after the dece of the sd (I) or so soon after as he she or they shall be competent at law to act at the costs and chas of the sd (P) his hrs or ass surrender and assure or cause to be, &c. the remaining undivided fifth pt or share of or belonging to the sd (I) of and in the sd messe, &c. with the appts and the inhance thof in fee simple according to the custom of the sd manor discharged of all entails to the use of the sd (P) his, &c. And also that in the mean time and until such surrender and assurance shall be made as lastly mentd it shall be lful for the sd (P) his hrs and ass from time to time and at all times peaceably and quietly to have hold use occupy possess and enjoy the sd remaining one-fifth pt of or belonging to the sd (I) the infant of and in the sd messe, &c. hnbefe described and to rece and take the rents issues and prfts thof and of evy pt thof to and for his and their own use and bent absolutely witht any let suit trouble denial eviction interruption claim or demand whatsr of the sd (I) the infnt or his hrs or any or. psn or psns whomsr And in conson of the preses the sd (P) doth hby for himself his hrs, &c. covt, &c. with and to the sd (V) that immly upon such surrender and assurance being made as afd by the sd (I) the infant or such or. psn or psns as afd he the sd (P) his hrs exs ads and ass shall and will well and truly pay or cause to be pd unto the sd (I) the infnt or the psn or psns making such surrender or assurance the sum of £ — of, &c. being the remaining pt of the sd purchase money or sum of £ — And also that in the mean time until paymt of the sd sum of £ — he the sd (P) his hrs exs ads or ass shall and will from time to time (if the sd (P) his hrs or ass shall so long have hold use and enjoy the entirety of the sd messe, &c. freed from and witht any let suit trouble denial eviction or interruption of from or by the sd (I) the infnt or any or. psn or psns whomsr but not orwise) well and truly pay or cause to be pd unto the sd M G pty hereto and (or. vendors) their exs or ads for the use and bent of the sd (I) the infnt or any or. psn or psns for the time being entitled to the same int upon or in respect of the sum of £ — after the rate of £ — per cent. per ann. to be computed from the day of by equal half-yrly payments on the day of and the day of in each yr free from taxes and witht any deduction whatsr the first half-yrly paymt to be made on the day of now next ensuing.

In Witness, &c.

Covenant by the Parents of Children who are entitled to Portions under a Will to a Purchaser that they shall release their Portions when of Age.

Between Vendor and Purchaser.

This Indre made, &c. Betn (parents) of, &c. of the one pt and (purchaser) of, &c. of the or. pt Whas (recite will whby lands were devised upon trust to raise portions for the sd children) Whas by indre of lease and release bearing even date herewith, &c. (recite conveyance to purchaser) And whas the sd purchase was made by the sd (purchaser) upon an assurance given by the sd (parents) resply that the sevl chn of the sd (parents) resply shd upon their attaining their respive ages of 21 accept their sevl and respive proportions of the sd sum of £ — and exte discharges for the same and confirm the sd sale Now, &c. That for the consons expsd in the sd in pt recited indre of rele and in pursuance of the agrt of the sd (parents) in this behalf It is hby granted concluded and agrd by and betn all the pties to these prests and each of the sd (parents) doth hby for himself his hrs exs and ads and as to for and concerning only the acts deeds and defts of his chn and of their exs ads or ass covt promise and agree to and with the sd (P) his hrs and ass in manner following that is to say That all and evy the chn of the sd (parents) resply shall and will when and as soon as they shall attain their respive ages of 21 or in case of their or any of their deaths under that age or before the exon of such rele hnafter mentd that the exs ads and ass of such and so many of the same chn resply as shall die under the age of 21 yrs or before the exon of such rele as hnafter mentd and witth any furr or or. expense to the sd (P) his hrs exs ads or ass (except as hnafter excepted) rele exonerate and discharge the sd (P) his hrs exs ads and ass of from and agst the sevl legacies paymts and portions provided for the sd chn of the sd (parents) resply And that they the sd (parents) do hby assent to and approve of the sd rele and conveyance to the sd (P) as afd And that they by an indorsement made on the sd indre of rele or orwise as shall be required by the sd (P) his hrs or ass shall and will make do and exte any act deed matter or thing whatsr for releasing exonerating or discharging the sd (P) his hrs exs ads and ass of from and agst the sevl legacies paymts or portions provided for the same chn and of and from all necessity or obligation (if any) of seeing to the application of the money pd into the hands of the sd (trustee) as afd And of and from all claims and demands of the same chn resply and of their sevl and respive exs ads and ass under or by virtue of the last will and testmt

*As to
Bound-
aries.*

of the sd (*testator*) or orwise howsr as far as relates to the messes, &c. purchased by the sd (*P*) as afd as by the sd (*P*) his hrs or ass or his or their counsel in the law shall be reasonably devised or advised and required so as the expense of the act or deed to be done by each of the sd chn resply or his exs ads or ass shall not exceed the sum of £ — or that the psn or psns requiring such act or deed to be done shall consent or agree to defray all the additional expense of the same act or deed beyond the sd sum of £ — *In Witness, &c.*

DECLARATIONS.

Definition.

Obs. 1. A declaration is any form or instrument by which the intentions of parties are expressly declared. This may be done in regard to any matter whatever, but the most usual instruments of this kind are a declaration of uses manifesting the agreement of parties as to what uses a deed shall enure, and a declaration of trusts by which trusts are either created or declared. The former of these, as a separate deed will, since the abolition of fines and recoveries, rarely be wanted for the future, but the latter is still in frequent use. When a declaration of trust embraces a variety of matters, it is usually called a Deed of Trust (see *Composition*.)

Of uses and trusts.

Must be in writing.

2. Since the stat. 29 Car. II. c. 3, a declaration by which a use or trust is created or declared must be in writing, but it is not necessary that it should be under seal, 7 Mod. 76. 4 Cru. Dig. 150.

Stamp.

3. A declaration of any use or trust of or concerning any estate, real or personal, when made by any writing not being a deed or will, and otherwise charged, requires a stamp of 1*l.* 15*s.*, and the further progressive duty of 1*l.* 5*s.* for every entire quantity of 1000 words above the first 1080.

Declaration to settle the Boundaries of Copyhold Lands which have become intermixed with Lands of Freehold Tenure.

This Indre made, &c. Betn (lord of the manor) of, &c. of the first pt (mortgagee) of, &c. of the second pt (vendor) of, &c. and (trustee) of, &c. of the third pt Whas (recite admission of the vendor to the copyhold lands) And whas the sd (V) has surrendered to or to the use of the sd (trustee) his hrs and ass In Trust for the sd (V) his hrs and ass the sd acres, &c. And whas the sd (lord) is lord of the sd manor of N subject to a mtge thereof made by him to the sd (mortgagee) for securing a sum of money with int And whas the sd copyhold lands are intermixed amongst freehold lds and heredit of the sd (V) And whas all the freehd and copyhd lds and heredit of the sd (V) or the sd (T) his trustee are described in the plan or ground plot in the schedule hereunto annexed And whas the sd (V) on the one pt and

the sd (L) on the or. pt are desirous of determining and settling the boundaries of the sd freehold and copyhold lds resply and to distinguish the lds of copyhold tenure from the lds of freehold tenure and have made an investigation into the facts by all the means within their respive powers and having to their satisfaction ascertained and distinguished which of the sd lds are of copyhold and which of freehold tenure they have agrd to make and exte the declon hnaftir contd as a perpetual and binding evidence betn them in all future transactions *Now this Indre Witnesseth* and it is hby decld and agrd by and betn the pties to these prests that the messe or tent buildings lds and hereditis which in the sd map or plan are coloured red and distinguished by the letter [A] are of copyhold tenure and are all the lds and hereditis which are now held by virtue of the sd in pt recited admission *And* it is hby furr decld and agrd by and betn the sd pties to these prests that all the residue of the sd lds described in the sd map or plan are of freehold tenure and are not nor are they henceforth to be deemed or claimed to be of copyhold tenure or to be subject to any suits services duties or obligations in respect of any teure by copy of court roll *In Witness, &c.*

*As to
Bound-
aries.*

Declaration that Money advanced is on Joint Account.

And lastly the sd I E and I M and I B do hby declare that the sd sum of £ — advanced by them upon this present secty is advanced by them out of mos in their hands jtly and on a jt account betn them *And* that if any or either of them shall die while all or any pt of the sd principal sum of £ — or any int in respect thereof shall remain due and owing on this present secty as betn themselves and their respive reptives the rect and rectis of the survors and survivor of them the sd I E, I M, and I B, and the exs and ads of such survivor shall be a sufficient discharge or sufficient discharges for the principal sum of £ — and int or so much thereof as in any such rect or rectis shall be acknged or expsed to be or to have been recd

Declaration by Cestuique Trust, that Money advanced by Trustees is by his Consent, and by Trustees that Money advanced is Trust Money.

This Indre, made, &c. Betn (cestuique trust) of, &c. of the one pt and (trustees) of, &c. of the or. pt *Whas* certain mos are vested in the sd (T) upon the trusts and to and for the ends intents and purps of a certain indre bearing date on or about the day of 18 and

*As to
Money
advanced.*

made or expsd to be made betn the sd pties hereto And it was by the sd indre decld and agrd by and betn the pties thereto that it should be lful for the sd (T) or the trustees or trustee for the time being under or by virtue of the same indre at any time or times during the life of the sd (C) and with his approbation and consent and after his dece then by the proper authty and sole discretion of the sd (T) or the trustees for the time being to change transfer alter or vary all or any of the funds and secties in or upon which the sd trust mos or any pt thof should for the time being be invested and place out or invest the same in or upon the like or any or. funds or secties the divds and int thof at all times being and remaining upon and under and subject to such and the same trusts ends intents and purps and such and the same powers provisoes declons and agrts as were decld or expssd by the sd indre or such and so many of the same as should from time to time be subsisting and capable of taking effect And *whas* the sd (T) have this day advanced and lent unto W L of, &c. the sum of £ — pt of the sd trust mos and he the sd W L hath by certain indres of lease and rele and assmt the indre of lease bearing date the day next before the day of the date of the rele and assmt bearing even date herewith conveyed and assd or orwise assured the manor lordship or reputed manor and lordship of or called in the co. of and the capital messe or mansion called or known by the name of and the lds to the sd messe or mansion belonging or appertaining And the advowson of the parish and parish church of in the co. of And the rectorial and vicarial messes lds tents tithes and hereds of him the sd W L in afd And a certain policy of insurance of him the sd W L in the assurance compy on the life of the sd W L for the sum of £ — unto and to the use of the sd (T) their hrs exs ads and ass as in the sd indre of lease and rele and assmt is mentd for securing the sd sum of £ — and the int thof Now *this Indre witnesseth* That the sd (C) doth hby expssly acknge testify and declare that the sd sum of £ — was so lent and advanced by the sd (T) as afd and so placed out and invested by them upon the secties hnbefe mentd with the full approbation and consent of him the sd (C) And *this Indre furr witnesseth* That the sd (T) Do and each of them the sd (T) Doth hby expssly declare and agree that they the sd (T) their hrs exs and ads shall and will stand possessed of the sd hnbefe mentd sum of £ — and the int thof and the hnbefe mentd and all or. secties for the same upon the

Testatum.

Consent of
cestuique
trust.

trusts and to and for the ends intents and purps expsd and decl'd in and by the sd hnbsfe in pt recited indre of the day of 18 of and concerning the mos of which the sum of £ — forms a pt and the int thof or such and so many of them as are now subsisting undetermined and capable of taking effect *In Witness, &c.*

*As to
Change of
Securities*

Declaration of Trust of Part of a Fund which had been sold out and invested in other Securities.

(By Indorsement)

To All, &c. the within-named (trustees) and (cestuique trust for life) send greeting *Whas* since the date and exon of the within-written indre the Rev C T pty thereto of the first pt hath departed this life *And whas* the sd (T) with the consent and approbation of the sd (C) have sold and disposed of two shares of the undertaking of the navigation from the to the being pt of the within-named eight shares And the mos which have arisen by such sale clear of the exps attending such sale amount to the sum of £ — *And whas* the sd (C) hath lately purchased of or from I L a certain messe at or for the price or sum of £ — And in order to complete such purchase he hath requested the sd (T) to advance him the sum of £ — pt of the mos produced by the sale of the sd two canal shares as afd which they have consented to do upon having the same secured upon the sd messe or tent and heredit's ag'd to be purchased by the sd (C) by way of mtge in manner hnaft'r ment'd *And whas* by indre of lease and release, &c. (recite indenture of mortgage by demise to trustees) Subject to the proviso thereafter cont'd for making void the same term upon paymt by the sd (C) his hrs exs ads or ass unto the sd (T) or the survivors or survivor of them his exs, &c. of the sum of £ — on or before the day of next ensuing with int for the same after the rate of 5l. per cent. per ann. in the mean time And from after the end or sooner determination of the sd term of yrs and in the mean time subject thereto To the use of the sd (C) his aptees hrs and ass *And whas* the sd (T) with the consent and approbation of the sd (C) have laid out and invested the sum of £ — being the remaining pt of the mos produced by the sale of the sd two canal shares as afd in the purchase of £ — 3 per cent. &c. in the names of the sd (T) in the books of the Gov and Compy of the Bk of Engl'd *Now know ye* and these prests witness That the sd (C) *Doth* hby acknge testify and declare that the sd sum of £ — laid out and invested by the (T) upon

Recital of
sale of cer-
tain shares.

Purchase
with trust
money.

Mortgage
to trustees.

DECLARATIONS OF TRUST.

*As to
Change of
Securities*

the secty of the afd messe or tent lds and heredit as afd and the sd sum of £ — by them laid out and invested in the purchase of £ — 3 per cent. &c. as afd were so resply laid out and invested at the express request and with the consent and approbation of the sd (C) *And furr know ye* And these prests further witness and the sd (T) do hby declare that they the sd (T) and the survors or survor of them and the exs or ads of such survor shall and will stand possessed of and interested in the sd sum of £ — and int secured to them by the sd in pt recited indre of mtge and the term of yrs thby limited and created as afd and the secty for the same And also of and in the sd 3 per cents, &c. and the divds and produce thof Upon and for the trusts intents and purps and under and subject to the powers provisions and declons in and by the within-written indre expsd and declod of and concerning the sd canal shares so sold and disposed of as afd or such of the same trusts, &c. *In Witness, &c.*

Declaration of Trust by Trustees, and Covenant to indemnify them from having applied Trust Monies in a Purchase.

This Indre made, &c. Betn (cestuique trust) of, &c. and H his wife of the one pt and (trustees) of, &c. of the or. pt Whas (recite conveyance of lands and hereditaments to *cestuique trust*) *And whas* the sd sum of £ — in the sd in pt recited indre of rele bearing even date herewith expsd to be pd by the sd (trustees) as or for the price or conson for the purchase of the sd freehold and copyhold heredit was not their own proper money but the same arose by the sale of £ — 3 per cent. consolidated Bk annities standing in the names of the sd (T) and held by them upon and for the trusts intents and purps and under and subject to the powers provisos and declons mentd expsd and contd in an indre dated the day of and made betn the sd (cestuique trust) of the first pt H his wife then HE spinster of the second pt and the sd (T) of the third pt being the settlemt made previously to the marre then intended and since solemnized betn the sd (C) and H his wife *Now this Indre witnesseth* and the sd (C) and H his wife do hby resply acknge and declare that the sum of £ — mentd in the sd indre of release of even date herewith as the price or conson for the purchase of the sd freehd and copyhd heredit therein comprised was raised by the sd (T) by sale of the sd £ — 3 per cent. &c. And that the same sum of £ — was in-

Testatum.

vested by the sd (T) in the purchase of the same freehd and copyhd heredit with the consent and approbation and at the request of the sd (C) and H his wife testified by their sevly being made pties to and exting these prests *And this Indre furr witnesseth* and the sd (T) do hby resply acknge and declare that the sum of £ — in the sd in pt recited indre of rele bearing even date herewith expssd to be pd by the sd (T) as and for the price or conson of the purchase of the sd freehd and copyhd heredit as afd was not their own proper monies but that the same arose by the sale of the sd £ — 3 per cent. &c. being pt of the trust funds mentd in or affected by the trust of the sd in pt recited indre of settlemt of the day of *And* it is hby agrd and decid by and betn the pties hereto *And* the sd (T) do hby resply consent and declare that they the sd (T) and the survors, &c. and the exs, &c. of such survivor shall and will stand seised and possessed of and interested in the sd freehd and copyhd heredit comprised in the sd in pt recited indre of rele bearing even date herewith and expssd to be thby appted and reld upon and for such trusts intents and purps *And* under and subject to such powers, &c. as will best correspond with the trusts intents and purps powers provos declons and agrmts in and by the sd indre of settlement of the day of expssd and decid of and concerning the sd sum of £ — 3 per cent. &c. so sold as afd or as near thereto as the death of pties and or. circumstances will permit *And this Indre furr witnesseth* That in conson of the preses the sd (C) doth hby for himself his hrs exs and ads *And* the sd H doth hby for herself her hrs exs and ads and in respect to the extent of her separate property covt promise and agree with the sd (T) and each of them and their and each of their hrs exs and ads That they the sd (C) and H his wife or one of them their or one of their hrs exs or ads shall and will from time to time and all times hrafr save defend and keep harmless and indemnified the sd (T) and each of them and each of their hrs exs and ads of from and agst all actions suits and or. proceedings at law and in equity which shall or may be brought had commenced or prosecuted agst the sd (T) their or either of their hrs exs and ads and of and from all costs chas dams and exps which the sd (T) or either of them shall or may pay bear sustain or be put unto for or by reason or on acct of the sd (T) having sold the sd £ — 3 per cent. &c. or their having invested the same sum in the purchase of the sd freehd and copyhd heredit or on acct of the non-renewal of the grant or grants of the sd copyhd heredit upon the

As to
Change of
Securities
Consent of
husband
and wife to
the pur-
chase.
Further
testatum.
Purchase
money part
of the trust
funds.

Further
testatum.
Indemnity
to trustees,

DECLARATIONS OF TRUST.

As to Purchases of Estates. dece of the *cestuique trust* thof or for or on acct of the cesser or determination of his or their este or int therein or for or on acct of the fines heriots customs or services to be performed in respect of the sd copyhd heredit or orwise or for or on acct of any act matter or thing in anywise relating to the sd preses
In Witness, &c.

A Declaration of Trust, that the Purchase of a Freehold Estate was in trust only, and for the Use of another Person. (By Indorsement.)

To all, &c. I (trustee) of, &c. send greeting *Whas* the meases or tents and lds, &c. comprised in the within-written indre were purchased by me at the request and desire and on the pt and behalf of the within named A B *Now Know ye* that I the sd (T) do acknge and declare by these presents that the sum of £ — within-mentd to have been pd by me as the conson of and for the purchase of the sd heredit and preses comprised in the sd within-written indre and thby conveyed to me and my hrs as within mentd was the proper money of the sd A B And that the name of me the sd (T) was made use of in the same within-written indre in trust only for him the sd A B his hrs and ass and upon and for no or. uses trusts intents and purps whatsr And I the sd (T) do hby for myself and my hrs wholly disclaim all este right title and int both at law and in equity in to upon respecting and concerning the same within mentd messes, &c. and I do hby for myself, &c. covt and declare that I they or any and evy of them shall and will at all or any time hrafrt at the request costs charges and expense of the sd A B convey and assure the same messes, &c. as he or they shall by any note in writing under his or their hands direct or appt And that in the mean time and until such conveyance and assurance I the sd (T) and my hrs shall and will stand seised of and interested in all and singr the afd heredit and preses in trust only and for the sole use and bent of the sd A B his hrs and ass for ever *In Witness, &c.*

Declaration of Trust in the Purchase of Copyhold Premises.

This Indre made, &c. Betn J B of, &c. of the one pt and J K of, &c. of the or. pt *Whas* by indre bearing date on or about the day of and made or expssd to be made betn the sd J K of the one pt and the sd

J B of the or. pt *Reciting* that the Lord Bishop of B — at a court leet and court baron holden for the manor of H — afd on the day of granted unto W H, E W, and G G the reversion of one cottage or tenement then divided into two dwellings and then late in the occupation of J S and A G togr with all that pt of the garden which was then divided with the dwellings containing about sixteen yards in breadth as the same was then divided by a quickset hedge *To Hold* the sd preses with the appts unto the sd W H in his own right and to the sd E W and G G *upon trust* for the use of the sd W H his exs ads and ass for and during the term of their natural lives and the life of the longest liver of them successively according to the custom of the sd manor immly after the dece surrender or forfeiture of W S tenant in possession of the same preses at and under the rents heriots services and suit of court in the then reciting copy of court roll expssd *And also reciting* that the sd W H departed this life on or about the day of having first duly made and published his last will and testmt in writing bearing date, &c. on or about the day of whby he directed that certain of his houses or tenements and land (including the sd copyhold preses) shd be sold by auction as therein is mentd and did thby appt the sd J B his sole exr who is therein mentd to have duly proved the same in the consistory court of the diocese of B — and taken upon himself the burden of the exon thof *And also reciting* That at a certain court leet and court baron of the Lord Bishop of B — holden for the sd manor the day of the sd E W and G G surrendered into the hands of the lord by his steward *All* their este right title and int m and to the revn of the sd preses and immly the lord by his steward afd granted the revn of the sd preses with the appts unto the sd E W, G G, and J G which sd E W, G G, and J G are therein to have been named upon special trust only and for the uses decld in the last will and testmt of the sd W H then decd *To Hold* the sd preses with the appts unto the sd E W, G G, and J G *upon trust* as afd for and during the term of their natural lives and the life of the longest liver of them successively according to the custom of the sd manor immly after the dece surrender or forfeiture of W S tenant in possession of the sd preses at and under the rents heriots services and suit of court in the then reciting copy of court roll expssd *And also reciting* That the sd J B then lately agrd to sell the sd copyhold preses to the sd J R at or for the price or sum of £ — It was by the sd indre now in recital

*As to
Purchase
of Copy-
holds.*

*Recital of
a lease for
three lives.*

Surrender.

*As to
Purchase
of Stock.*

witnessed that for and in conson of the sum of £ — to the sd J B pd by the sd J R as therein mentd be the sd J B did covt direct declare and agree to and with the sd J R his exs ads and ass that the sd W S (the tenant in possession of the sd copyhold preses) and the sd E W, G G and J G shd from thenceforth stand seised of and interested in the sd copyhold preses with the appts *In Trust* only and for the use of the sd J R his exs ads and ass according to the custom of the sd manor and that the sd W S, E W, G G and J G should and would as therein mentd surrender into the hands of the lord of the sd manor according to the custom thereof all and singr the sd cottage or tenement then lately divided into two dwellings and in the occupation of J S and A G but now again converted into one cottage with the sd garden by the removal of the before-mentd quickset hedge then formed into one garden in the occupation of *To the intent* that the lord might regrant the same preses with the appts for the same or such or. lives as the sd J R his exs ads and ass shd agree for with the lord in that behalf *in trust* and for the use of the sd J R his exs ads and ass *And whas* the sd sum of £ — so mentd to have been advanced by the sd J R was not his proper money but was the proper money and este of the sd J B *Now this Indre Witnesseth* That the sd J R doth hby acknge testify and declare that the sd sum of £ — so advanced by him to the sd J B as afd in the purchase of the sd preses mentd and comprised in the sd recited indre of the day of was not the proper money and estate of the sd J R but the same was and is the proper money and este of the sd J B And that the sd J R his hrs exs ads and ass shall and will stand seised and possessed according to the nature and quality thereof and the custom of the sd manor of the copyhold heredit and preses mentd and comprised in the sd recited indre of the day of and of their and evy of their rights members and appts *upon trust* for the sd J B his exs ads and ass to be surrendered conveyed and assured from time to time as the sd J B his exs ads or ass shall direct or appt *In Witness, &c.*

*Declaration of Trust of Funds Exchanged and Purchased
for the Uses of a Settlement.*

Recital of
settlement.

To all, &c. (husband) of, &c. and M his wife and (trustees) of, &c. send greeting Whas by indre of settlement of three pts bearing date the day of 18 and made betn the sd M then M P spinster of

DECLARATIONS OF TRUSTS.

39.

the first pt the sd (H) of the second pt and the sd (T) of the third pt and purporting to be a settlement made in contemplation of a marre since had and solemnized betn the sd M P and the sd (H) part of the property of the sd M P then invested in the sd settlement of shares of, &c. were conveyed, &c. *And whas* by the sd indre of settlemnt it was provided that if the sd M P and the sd (H) should at any time be desirous of changing any pt of the sd property into any or. fund or funds and should signify the same in writing under their hands to the sd (T) it should then be competent for them the sd (T) to make such exchange as they should be advised pursuant to such notice so as that the sd trust property should in no wise be diminished in value And should be held for the trusts thereby decd or for such of them as should be capable of taking effect *And whas* the sd (H) and M his wife in pursuance of the sd proviso did on the day of signify their desire in writing under their hands to them the sd (T) that the sd shares of and in should be exchanged into a permanent government fund and the sd (T) have accordingly sold the sd shares of and in for the net sum of £ — and have since invested the same in the purchase of £ — 3 per cent. consolidated Bk annities and the same is now standing in their names in the books of the Gov. and Compy of the Bk of Engld *And whas* it is also provided by the sd in pt recited indre of settlement that if the sd M P shd at any time then after become possessed of any property by legacy gift or orwise to the value of £ — or upwards that then the same should be forthwith invested in the jt names of the sd (T) upon the trusts of the sd settlemnt or such of them as should be capable of taking effect *And whas* the sd M hath lately become possessed of a legacy or sum of £ — by the last will and testmt of E L late of, &c. decd and the sd (H) and M his wife did by writing under their hands bearing date, &c. signify to the sd (T) their desire that the same should be forthwith invested in 8 per cent. reduced annuities and the sd (T) have accordingly laid out the same in the purchase of £ — 3 per cent., &c. and the same is now standing in their jt names in the books of, &c. *Now therefore these prests Witness* That they the sd (T) do hby testify and acknge and declare that they the sd (T) by the direction and apptmt and at the request and desire of them the sd (H) and M his wife testified by their being pties to and exting these prests *Have* invested and so accepted and *Do* now and shall and will hold retain and keep in their jt names both the sd capi-

*As to
Purchase
of Stock.*

Liberty to
change se-
curities.

Exchange
of funds.

Other prop-
erty to be
invested.

Legacy to
wife.

Declaration
of trusts.

DECLARATIONS OF TRUSTS.

As to Purchase of Stock. tal sums of £ — and £ — 3 per cent., &c. and all net divds int and proceeds due and to grow due and paye thereon resply as and when the same shall be receivable at the bank of Engld to and for and upon and subject to all the uses trusts and purps in and by the sd indre of settlement deold and provided and to and for no or. use whatsr *In Witness, &c.*

Declaration of Trust of Stock and Personal Estate bequeathed for the Benefit of Children.

Recital of will.

To all, &c. (trustees) of, &c. send greeting Whas H A late of, &c. decd by her last will and testmt in writing bearing date on or about the day of 18 amongst or. pecuniary and specific bequests gave and bequeathed to the sd (T) her exs and trustees therein-after named *All that* her debenture No. in the dated, &c. and purchased by her of J I therein-named and all distributive share int bent and advantage to arise and become paye therefrom and also the capital sum of £ — per ann. long annuities *in trust* to pay or cause to be pd all and evy yrly half-yrly or or. paymts thereof as the same should arise and become paye to her dear niece S the wife of W F or to permit and suffer her to rece the same for her own sole and separate use and bent for and during the term of her natural life in manner therein-mentd and from and after her dece *In Trust* to sell and dispose thereof and to pay apply and divide the net produce thof to and among all and evy the child and chn of them the sd S and W F at the time of her dece in equal shares and proportions as and when they shall attain their respive ages of 21 yrs and in the mean time to apply the int and paymts thof resply towds their maintenance and education and in case any of them shd happen to die before attaining such age then *in trust* as to the share of such child or chn so dying for the equal bent and advantage of the survivors or survivor of them and if there shd be no such child or chn living at her sd niece's dece the sd testatrix directed that all the sd last-mentd trust mos should sink into and become pt of her residuary este and effects *And* the sd testatrix also gave and bequeathed to the sd (T) the sum of £ — reduced 3 per cent., &c. *In Trust* to rece and invest the int thereof in accumulation of the sd capital for the use and bent of C F the eldest son of the afd S and W F until he should attain his age of 21 and when and so soon as he should attain his age of 21 yrs *in trust* to assign and transfer the whole of the sd capital sum of £ — reduced annities and all such

accumulated increase thereof to him the sd C F and to and for his own absolute use and bent and in case the sd C F should happen to die before he should attain such age then *Upon Trust* to transfer and divide the same capital and increase to and amongst all the brothers and sisters of the sd C F or the survors or survivor of them share and share alike *And whas* the sd testatrix departed this life on or about the day of now last past witht altering or revoking the sd will and the sd (T) duly proved the same in the Prerogative Court of the Archbishop of Canterbury on the day of now last past *And whas* the sd S F departed this life in the month of in the yr 19 leaving three chn namely, &c. her surviving *And whas* the sd (T) have in exon of the sd will sold the sd debenture for the sum of £ — of which after deducting exps of sale there doth remain the net sum of £ — making togr with the net half-yrly int thereon the sum of £ — And they have also sold and transferred the sum of £ — long annties on the day of at the market price of that day amounting to £ — *And whas* the sd (T) have laid out and invested the sd sum of £ — and £ — making togr the sum of £ — in the purchase of £ — 3 per cent. consolidated annuities, &c. and the same is now standing in their jt names in, &c. *Now know ye* That they the sd (T) *Do hby* declare that they do now and shall and will from time to time and at all times hraft hold and stand possessed of the sd capital sum of £ — consolidated annties and the sd sum of £ — reduced annties and all int divds and proceeds thereof resply as the same shall from time to time become due and be receivable thereupon resply upon the sevl and respive trusts and to and for the ends intents and purps in and by the sd in pt recited will resply decld and expsd concerning the same debenture and long annuities and the produce thereof and concerning the sd £ — reduced annties and the accumulations thereof to and for such uses and trusts thereof resply as shall from time to time be capable of taking effect and to and for no or. use trust or purpe whatsr *In Witness, &c.*

*As to
Funds
under a
Settle-
ment.*

Death and
probate.

Death of
S F.

Trusts.

*Declaration of Trust from newly-appointed Trustees
of a Settlement of Funds.*

To all, &c. (trustees) of, &c. send greeting Whas, &c. (recite settlement) And whas the sd (*father of intended wife*) did in and by the sd in pt recited indre of settlement covenant with the sd (T) that if the sd in-

Recital of
settlement.

DECLARATIONS OF TRUSTS.

*As to
Funds
under a
Settle-
ment.*

tended marre should take effect the exs or ads of him the sd (*father*) should within six mths after his death pay to the trustees in whose names the therein befe-mentd bank annities should then stand or be vested such sum of money as should then purchase £ — 3 per cent., &c. to be laid out and vested in the purchase thereof or some or. funds or secties upon such trusts and to and for such intents and purps as in and by the sd indre were expsd and decld of and concerning the same *And whas* (recite power of appointing new trustees by husband and wife or the survivor of them) *And whas* by a certain deed poll indorsed on the sd indre reciting as hnbefe recited and also that the sd (*one trustee*) was then lately dead and that the sd (*H*) and *M* his wife in pursuance of the powers vested in them in and by the sd proviso or agrt in the sd indre contd Did thby nominate and appt the sd (*new trustee*) of, &c. to be a trustee in the place and stead of the sd (*old trustee*) togr with the sd (*surviving trustee*) to the intent and purpe and for carrying into exon the sevl trusts in and by the sd indre created *And whas* in pursuance of the sd apptmt the sd (*surviving trustee*) the surviving trustee did transfer the sum of £ — 3 per cent., &c. into the jt names of the sd (*N and S T*) *And whas* (*father of wife*) is since dead having first duly made and published his last will and testmt and thereof constituted and appted (*executor*) his son sole exr *And whas* the sd (*executor*) in pursuance of the covt in the sd in pt recited indre contd did soon after his father's dece duly transfer and ass £ — 3 per cent. reduced, &c. to and for the use of the settlement *Now therefore Know ye* That the sd (*T*) do hby for themselves and the survor of them and the exs and ads of such survor acknge testify and declare that the sd £ — 3 per cent. consolidated Bk annities *And the sd* £ — 3 per cent. reduced, &c. so transferred to them and standing in their names as afd were so assd and transferred to them the sd (*T*) and that they and the survor of them and the exs, &c. do and shall and will from henceforth from time to time and at all times hraftir well and truly hold and keep the same and evy pt thof and all net yrly and or. divds int and proceeds due and to grow due and paye thereon to for and upon the sevl uses trusts ends intents and purps, and subject to the sevl covts clauses provisos and agrts in the sd in pt recited indre tripartite mentd expsd decld limited and appted of and concerning the same and to and for no or. use intent and purpe whatar *In Witness, &c.*

Declaration of Trust as to Subscription Funds.

*As to
Subscription
Funds.*

To all, &c. (trustees) of, &c. send greeting *Whas* a subscription hath been entered into for the purpose of erecting a and establishing a society for And divers sums of money have been pd into the hands of the sd (T) *Now these presents witness* That they the sd (T) Do and each of them for himself sevlly and resply and for his sevl and respive exs and ads *Doth* by these prests testify and declare that they have from and out of the aggregate amount of such subscriptions hitherto recd by them laid out and invested the sum of £ — in the purchase of the capital sum of £ — 3 per cent., &c. And that they have duly accepted and do now and shall and will at all times hrafrt hold and stand possessed as well of the sd capital sum of £ — 3 per cent., &c. as also of all such furr and or. capital sums in the sd Bank Annties or in any or. government funds or secties as shall in like manner be purchased by or transferred to them for the purps afd and which shall be specifed and set forth in the schedule thereof hereunder written and also of all divlds int yrlly and or. proceeds of all such capital stocks and secties now due and which shall from henceforth at all times hrafrt accrue due and become paye thereon And all sums of money which now are or may be so subscribed and pd into their hands for the purps afd to for and upon the sevl and respive trusts uses intents and purps as are hnafrt expsd and decid of and concerning the same that is to say *Upon Trust* to sell assign transfer exchange pay apply and dispose of all or any pt of the afd trust property at such times to such psns and for such uses and purps as the afd subscribers or the major pt of them at any meeting to be regularly assembled and convened by public notice for that purpe shall from time to time resolve order and direct such resolution or order being made in writing and certified to the sd (T) or the survivors, &c. under the hand of the psn presiding in the chair at such meeting *And also upon trust* in obedience to any such order or resolution so made and certified in manner afd forthwith to effectuate or to join and concur in effectuating all such sales transfers paymts matters and things as shall be contd and expsd in such order and as the same shall require And as to the int divlds and proceeds of the afd capital and capitals togr with all such sums of money as shall be subscribed and pd into their hands for the purps afd from time to time as the same shall be recd in trust to invest the same in

To apply
funds ac-
cording to
order.

To invest
dividends,
&c.

*As to
Subscription
Funds.*

To repay
funds if not
wanted for
the pur-
poses of the
subscription.

New trustees.

like manner in and towards the augmentation and increase of the afd capital stocks but subject to the like order and resolution for the disposition thereof as afd

And in case it shall happen that the purps for which the subscription had been opened shall be resolved to have become unnecessary or that the same shall be abandoned by the sd subscribers or by the major pt of them assembled at any meeting to be convened for that purpe in manner afd Then and in either of the sd cases

Upon Trust forthwith to sell and dispose of all the sd capitals which shall have been so invested and then remaining in their hands as afd and to make up a final acct of all the mos so recd and pd and by and out of the net balance and produce thereof then remaining in their hands to refund and repay to the respive subscribers their exs, &c. the whole amount of their respive subscriptions or such proportional pt thereof as the same will extnd to pay *pro rata* according to the amount of each subscription subject to the costs chas and deductions as are hnaft reserved And to and for no or. use intent and purpe whater *Provided always* and it is hby decl'd, &c. to be the true intent and meaning of these prests that if any or either of the sd (T') or any future trustee or trustees shall be desirous of withdrawing from the trusts hby in them reposed before the same shall be fully accomplished it shall be lful and competent for him or them to signify such his or their desire to the or. or ors of the sd trustees and in conjunction with them or witht if need be to convene a general meeting of the sd subscribers in manner afd and to signify such resignation to such meeting as afd when the same shall be duly assembled And also in case it shall happen that any or either of the sd (T) or any future trustees or trustee shall happen to die before the sd trusts shall be fully accomplished Then and in that case that the survors or survivor of them shall forthwith convene a meeting of the subscribers in manner afd and communicate such dece at such meeting and that in both the sd cases it shall be lful and competent for such meeting or for any or. meeting duly convened in manner afd to elect and appt one or more fit and proper psn or psns to become a trustee or trustees in the room of such trustee or trustees so relinquishing or dying as afd And that the remaining or surviving trustee or trustees shall and will forthwith join and concur in all such acts transfers matters and things as shall then become necessary for and towds the vesting of all the sd trust mos and of the afd trusts or such of them respily as shall then be subsisting and capable of taking effect

DECLARATIONS OF TRUSTS.

45

in the psn or psns who shall be so elected and appted as afd And that all such new trustee or trustees so to be elected as afd shall be permitted to act in the management and concerns of the sd trusts hnbefe expsd in conjunction with the remaining or surviving trustee or trustees in the same manner to all intents and purps as if he or they had been an original trustee or trustees and had become party to these prests *Saving and reserving* at all times to themselves the sd pties hereto and to all such new trustees and these prests and also the sd trust mos and evy pt thereof respaly are had made taken and accepted by them the sd pties hereto and are so deemed appted and agrd by the sd subscribers upon this expes condon that neither of them the sd (T) their exs or ads shall be at any time or times soever made liable for any more stock or money than shall actually come into his or their own proper hands or for the loss or variation in the price of stocks or for the failure of any banker broker or or. psn with whom any pt of the trust property may be deposited or be liable for any or. than his own immediate and respive wilful acts deeds and defts *And also saving and reserving to themselves and each and evy of them his their and each and evy of their exs ads and ass full and free liberty from and out of all or any pt of the sd respive trust mos in the first place to reimburse and deduct to his and their own proper use and bent all sums of money costs chas dams exps and demands whatsr which he or they or either of, them can shall or may reasonably incur bear sustain or be put unto in any manner howsr by reason or on acct of their acceptance and exon of the trusts hnbefe decld any thing hnbefe contd to the contrary thof in any wise notwithstanding In Witness, &c.*

*As to
Charity
Funds.*

Indemnity
to trustees.

Declaration of Trust as to the Funds of a Charity.

To all to whom these prests shall come A B of, &c. a governor for life and also treasurer of and for the hospital of at and in the co. of Middsx C D of, &c. also a governor for life of the sd hospital and E F of, &c. secretary and receiver of and for the sd hospital send greeting *Whas the capital sums of £ — consolidated Bank annities and £ — reduced Bank annities the property of the sd hospital by divers gifts legacies and investments have been this day transferred into the jt names of the sd pties hereto and do now stand in their jt accts in the proper books kept for those respive stocks at the Bk of Engld for the sole use and bent of the sd hospital Now these prests Witness That they the*

DECLARATIONS OF TRUSTS.

*As to
Charity
Funds.*

Trusts.

Subject to
orders.

For any
exchange or
transfer.

sd A B, C D and E F do and each of them for himself sevlly and resply and for their sevl and respive exs and ads doth by these prests acknge testify and declare that as well the sd two sevl capital sums as also all furr and or. capital sums which shall at any time or times hrafr be transferred into their jt names for the bent of the sd hospital and which shall be specified and set forth in the schedules thereof hereunder-written shall be at all times hrafr deemed and taken to be the property of and belonging to the sd hospital And that the same shall from time to time as the same shall be so transferred stand and remain in their jt names and be held by them togr with all divds int and yrlly or or. income and proceeds thereof resply arising therefrom *In Trust* only and to and for the sole use and bent and advantage of the sd hospital and to and for no or. use trust or purpe whatsr but subject nevss at all times to the control order and discretion of the house committee for the time being or the major pt of them in committee assembled (or of the governors of the sd hospital for the time being or the major pt of them at any general court or assembly to be convened for that purpe) either for the exchange transfer or sale thereof resply or of any pt thof resply or orwise as they shall direct order or appt such order direction or apptmt being made or entered in writing in their minutes and certified to them the sd A B, &c. or to the survors or survivor of them their or his exs or ads under the hand of the governor or chairman then presiding at that committee or general court or by the secretary for the time being And that they the sd pties and the survors and survivor of them their or his exs or ads shall and will sevly concur therein and sign such rects for the same as the nature of the case shall require *In Trust* forthwith to pay the same into the hands of the treasurer for the time being or lay out and invest the same or so much or any pt thof in any or. governmt fund or secty as the sd house committee (or the general courts) at the afd or any or. subsequent meeting by their like order in writing entered and certified in manner afd shall or may direct and appt and in the meantime and until such exchange or transfer shall be so made as afd *Upon Trust* to pay to or to permit and suffer the treasurer for the time being of the sd hospital or any or. psn or psns to be deputed or appointed by the sd house committee (or by the sd general court) from time to time and at all times as often as the same shall become due and paye to have rece and take the sd divds int and proceeds of all the sd trust mos to be by him or them pd applied or disposed of

for or towards carrying on the humane and charitable designs of the sd hospital in such manner as the sd committee (or court) shall order and direct And from and immly after any such exchange transfer or sale shall have been done or effectuated as afd and the produce arising therefrom shall have been laid out and invested in their joint names in any or. government funds or secties in obedience to such order as afd that then the sd pties hereto and the survors or survivor of them their or his exs or ads shall and will sign all necessary acceptances thof and also specify the same in some schedule to be thof hereunder-written And shall and will stand and be possessed of the whole amount thof and of all divds int and proceeds thof *Upon Trust* in like manner as to the sd trust mos or such pt thof as afd as shall or may be exchanged and invested in any or. funds or secties as afd as also to such pt thof as shall or may be then remaining in their names in the funds hnbefe recited and also to the divds int and proceeds arising or to arise therefrom resply in such manner and upon such and the like trusts as are hnbefe decld And subject at all times to the furr order and direction of the sd house committee (or general court) for the time being as afd And it is hby furr decld by all the sd pties hereto that in case any or either of them the sd A B, &c. or any or. trustees hnafr to be apptd shall be desirous of relinquishing the sd trusts or in case any or either of them shall happen to die Then and in either of such cases and so soon as the sd house committee (or general court) shall have nominated or apptd any or. psn or psns to become a trustee or trustees in their place or stead then the sd pty so relinquishing or the exs or ads of the pty so dying and also the remaining or surviving trustee or trustees shall and will when thereto required join and concur in doing exting and performing all such acts and deeds as shall be requisite towards effecting such transfer or transfers of the sd trust mos into the names of the remaining or surviving and any such new trustee or trustees in such effectual manner as that the same may be legally vested in them upon such uses as are hnbefe decld And that such new trustee or trustees so to be appointed as afd shall be permitted to act in the management and concerns of the sd trust hnbefe expssd in conjunction with any such then remaining or surviving trustee or trustees in the same manner to all intents and purps as if such new trustee or, &c. had been originally apptd and had been pty or pties to these prests Saving and reserving to themselves the sd pties hereto and to evy such new trustee or, &c. and to the

*As to
Charity
Funds.*

*As to the
new funds.*

*Appoint-
ment of
new trustee-]
tees.*

*Indemnity
to trustees.*

DECLARATIONS OF TRUSTS.

*As to
Funds De-
queathed.*

Reimburse-
ment of
expenses.

survivors, &c. and these preists are and also the sd trust mos and evy pt thof resply are had made taken and accepted by them the sd pties hereto and are so deemed appted and agrd by the sd house committee (or general court) upon this expss condon that neither of them their exs or ads shall be at any time or times soever made liable for any more stock or money than shall actually come into his or their proper hands or be liable for any or. than his own immediate and respive act and deed or to the failure of any banker or or. psn or to any fall in the price of stocks *And also* saving and reserving to themselves and each and evy of them his their and each of their exs and ads full and free liberty from and out of all or any pt of the respive trust mos to reimburse deduct and retain to his and their own proper use and bent all sums of money costs chas dams and exps whater which he or they shall or may reasonably incur bear sustain or be put unto in any manner howsr by reason or on acct of their acceptance or exon of the trusts hnbefe deekl any thing hnbefe contd to the contrary thof in anywise notwithstanding

In Witness, &c.

*Declaration of Trust of Funds for a Widow and
Children and Grandchildren.*

Recital of
transfer of
stock.

Testatum.

That the
sum of £—
Bank an-
nuities was
transferred
to trustees.

This Indre, &c. Betn (*widow*) of, &c. widow and relict of A B late of, &c. decd of the one pt and (*trustees*) of the or. pt *Whas* in conson of the natural love and affection which the sd (*W*) doth bear towds her only daur M of, &c. spinster and for divers good causes and consons her thereunto moving she the sd (*W*) hath transferred the capital sum of £— 3 per cent. consolidated Bk annities and the same is now standing in the joint names of the sd (*T*) to the intent that they should stand possessed thof upon the trusts and to and for the intents and purps hrnaft expsd and deekl *Now this Indre witnesseth* That they the sd (*T*) do hby for themselves sevlly and resply and for their sevl and respive exs ads and ass covt, &c. with the sd (*W*) her exs, &c. That the sd £— Bk annities is not the property nor was the same or any pt thof purchased and invested in their names as afd with the proper mos of them the sd (*T*) but the same was so invested with the proper mos of the sd (*W*) *And* that the sd (*T*) have accepted and shall and will from time to time and at all times hraft hold and stand possessed thof and of all net proceeds yrly and half yrly paymts thof to and for and upon all the respive uses trusts and purps hrnaft

contd and decld concerning the same that is to say *As to*
Upon trust in the first place to pay to or to permit and *Mortgage*
suffer her the sd (*W*) and her ass to have rece and take *Money.*
all the net half-yrly dividends, &c. of the sd £ — Bk,
&c. as and when the same shall grow due and paye *Upon trust.*
thereon at the Bk of Engld for and during the term of *To permit*
her natural life *And* from and immly after her dece *widow to*
then *Upon trust* to pay all the sd half-yrly net paymts *receive*
thenceforth to grow due and paye thereon as afd unto *dividends*
or to permit and suffer the sd M to have rece and take *during her*
the same to her own sole and separate and absolute use *life.*
and bent for and during all the term of her natural life *Daughter*
or to such psn or pens, &c. as she the sd M by any note or *to receive*
deed, &c. whether she shall be sole or under coverture shall *the same*
direct and appt and that at all times free and exclusive *during her*
of and witht being subject to the control intermeddling *life,*
debts or engagements in any manner howsr of any hus- *for her sole*
band with whom she may intermarry and upon her *and sepa-*
sole and separate rect and discharge for the same not- *rate use ;*
withstanding any such coverture *And* from and immly *and at her*
after the dece of her the sd M *In trust* to pay and *death to*
apply all the net half-yrly paymts of the sd £ — annities *grand-*
in equal shares and proportions, &c. (to grandchildren; *children ;*
&c. see *Settlements*) *And* in the meantime during their *with benefit*
minority *In trust* (to raise money for their advance- *of survivor-*
ment, see *Settlements*, &c.) *And* in case it shall happen *ship.*
that any of such chiln shall die during their minority *In default*
or shall marry witht such consent as afd then *of grand-*
trust to pay apply transfer and assign the share of such *children to*
child or chiln so dying, &c. to and for the use and bent *son.*
of the survor or survors or or. or ors of them resply *In default*
And in case it shall happen that the sd M shall depart *of grand-*
this life witht leaving any child or chiln lful issue of *children to*
her body or there being such they shall all die before *son.*
they shall attain the age, &c. being sons or being daurs *their sd age of*
or previous day of marre, &c. then *Upon trust*
to transfer and assign all the sd £ — *annities*
or so much thof as shall remain unapplied as *afid to and to the use of R son of the sd (W) his exs*
ads and ass and to and for no or. use trust or purpe *whatsr*
Provided always (Proviso to alter the stock to *appoint new trustees and also indemnity to trustees)*

In Witness, &c.

*Declaration of Trust as to Mortgage Money advanced
on Mortgage by Trustees under a Marriage Settle-
ment.*

*To all to whom, &c. (trustees) send greeting (re- Recitals.
cite marriage settlement and the mortgage) And whas*

DECLARATIONS OF TRUSTS.

*As to
Mortgage
Money.*

Testatum.

That trust-
tees will
stand seised
of trust
money upon
the trusts of
the settle-
ment.

the sd sum of £ — so advanced by the sd (T) to the sd (mortgagor) was not the proper money of the sd (T) but was pt of the trust monies which have come to their hands under and by virtue of the sd in pt recited indre of settlement Now, &c. That the sd (T) do hby acknge testify and declare that the sd sum of £ — so advanced by them to the sd (M) as afd on secty of the hereditis and preses mentul and comprised in the sd in pt recited indre of apptmt and rele of even date herewith was not the proper money and este of the sd (T) but the same was and is pt of the trust money come to their hands under, &c. and that the sd (T) and the survor of them and the hrs, &c. of such survor shall and will stand seised and possessed according to the nature and quality thof resply of the sd hereditis and preses mentul and comprised in the deed of apptmt, &c. with their and every of their rights members and apts and of the sd principal sum of £ — and the int thof thby secured or expsd and intended so to be upon the trusts and to and for the sevl ends intents and purps and by with under and subject to the sevl powers provos declions and agrmts mentul expsd and dectd in and by the sd in pt recited indre of settlemnt of and concerning the sd sum of £ — or trust funds of which the same formed a pt or such of them as are now subsisting and capable of taking effect *In Witness, &c.*

Declaration of Trust as to a Sum of Money, part of another Sum secured on Mortgage as a further Security for a Bond Debt to the same Amount.

Recital of
mortgage
by demise.

This Indre made, Betn (mortgagee) of, &c. of the first pt (mortgagor) of, &c. of the second pt and (obligee) of, &c. of the third pt Whas by a certain indre of apptmt and demise bearing date the day next before the day of these prests and made or expsd to be made betn the sd (mortgagor) of the one pt and the sd (mortgagee) of the or. pt He the sd (mortgagor) did direct limit and appt bargain sell and demise unto the sd (mortgagee) his exs ads and ass All those, &c. with their and evy. of their apts To Hold the same unto the sd (mortgagee) his exs ads and ass from the day next before the day of the now reciting indre for the term of 500 yrs witht impeachment of waste at a peppercorn rent Subject nevss to a proviso or condon in the sd indre now in recital contd for making void the sd term on paymt by the sd (mortgagor) his hrs exs ads or ass unto the sd (mortgagee) his exs ads or ass of the sum of £ — with full int for the same on the day now next en-

suing *And whas* by a certain bond or obligation in writing under the hand and seal of the sd (*mortgagor*) bearing date the day of last past he the sd (*mortgagor*) hath become and now is held and firmly bound unto the sd (*obligee*) her exs ads and ass in the penal sum of £ — with a condon there under-written for making void the same upon paymt by the sd (*mortgagor*) his hrs exs ads unto the sd (*obligee*) her exs ads or ass of the sum of £ — with lful int for the same on the day of *And whas* the sum actually advanced by the sd (*mortgagor*) to the sd (*mortgagor*) at the time of the exon of the sd in pt recited indre of demise was £ — but the sum of £ — is mentd therein in order to cover the sum of £ — so due and owing from the sd (*mortgagor*) to the sd (*obligee*) on bond as afd and as a furr and additional secty for the same as well as securing the sd sum of £ — so lent and advanced to him by the sd (*mortgagee*) as they the sd (*mortgagor*) and (*mortgagee*) do hby acknge *Now these Prests witness* and it is hby agrd and decid by and betn the pties hereto and the sd (*mortgagee*) at the request and by the consent privity and direction of the sd (*mortgagor*) testified by his being a pty to and exting these prests *Doth hby* for himself his exs, &c. covt, &c. with, &c. the sd (*mortgagee*) and (*obligee*) and each of them their and each of their exs, &c. That the principal sum of £ — and no more is really and *bona fide* due and owing to him the sd (*mortgagee*) upon or by virtue of the sd in pt recited indre of mtge *And also* that he the sd (*mortgagee*) his exs ads and ass shall and will stand possessed of and interested in all and singr the messe or dwelling-house closes pieces or pcls of lds hereditas and preses hnbefe mentd and comprised in the same in pt recited indre of and of and in the term of 500 yrs limited to him therein as afd And also of and in the sum of £ — pt of the sd sum of £ — thby secured or intended so to be and the int thof subgett nevras to and after paymt and satisfaction of the sd sum of £ — pt of the sd sum of £ — so due and owing to him the sd (*mortgagee*) on secty of the same messe, &c. as afd and the int thof and all costs chas and exps attending the recovering and receiving the same *In trust* for the sd (*obligee*) her exs ads and ass And as a furr or collateral secty to her for the sd sum of £ — and int so due and owing and secured to her by the sd hnbefe in pt recited bond *In Witness, &c.*

As to Mortgage Money.

Recital of bond debt.

Sum advanced by mortgagee.

Covenant from mortgagee as to part of the mortgage money.

DECLARATIONS OF TRUSTS.

*As to
Mortgage
Money.*

*Recital of
mortgage
by demise.*

*Declaration of Trust as to Part of Mortgage Money
secured on a Term.*

To all, &c. C D sendeth greeting *Whas* by an indre of demise bearing date, &c. and made betn A B of, &c. of the one pt and the sd C D of the or. pt the sd A B in conson of the sum of £ — therein mentd to be pd by the sd C D did demise, &c. *To Hold* for a term of yrs defeasible on repayment by the sd A B to the sd C D of the sd sum of £ — with int on certain days therein mentd as in and by the sd indre reference being thereto had will more fully appear *Now know all Men* by these prests That he the the sd C D doth hby acknge and declare that the sum of £ — part of the sd sum of £ — so advanced to the sd A B as afd is the proper money of the sd E F of, &c. and the sum of £ — or. pt of the sd sum of £ — is the proper money of G H of, &c. and therefore the sd C D doth hby declare and agree that he the sd C D his exs and ads shall and will from henceforth stand possessed of and interested in the sd mtge and mtgd preses and evy pt thof *In trust* as well for securing the paymt of the sd sum of £ — and int to the sd E F his exs ads or ass as for securing the paymt of the sd sum of £ — and int to the sd G H his, &c. And the sd C D shall not and will not assign or orwise vacate the sd mtge or rele the mos thby secured until the sd E F shall be fully pd and satisfied the sd sum of £ — and int and the sd G H shall also be fully pd and satisfied the sd sum of £ — and int *In Witness, &c.*

*Declaration of Trust on a Mortgage Term with
Assignment of the Term.*

To All, &c. I, C D of, &c. send greeting *Whas* (recite mortgage by demise from A B to C D) *Now Know ye* that I the sd C D do hby acknge and declare that the sd sum of £ — so secured to be pd and paye out of the sd mtgd preses as afd is the proper money of the sd E F of, &c. his exs ads and ass in the above in pt recited indre of demise and therefore in discharge of the sd trust in me reposed as afd and in conson of 5s. &c. I the sd C D *Have* at the request of the sd E F granted bargained sold and assd and set over and by these prests *Do grant bargain sell, &c.* unto the sd E F his, &c. all the este right title int term of yrs use trust bent claim and demand whater which I the sd C D have or may have or claim of in or to the sd messes, &c. or the preses in and by the sd in pt recited indre of

demise or mtge granted to the ss afd or of or in any matter or thing in the sd indre mentd and contd so that neither I the sd C D my exs ads and ass or any of us at any time hrafts shall ask demand claim or challenge any este int bent trust or privilege in any respect or manner whater in or to the above assd preses or any pt thof by reason colour or means of the sd in pt recited indre of demise or mtge or any covt provisio matter or thing therein contd or orwise hower but thof and therefrom and of and from all actions suits and demands whater which I my exs ads and ass or any of us may have concerning the same shall be wholly and entirely debarred *In Witness, &c.*

*As to
Outstanding
Terms*

Declaration as to Using a Person's Name in a Bond.

Whereas by a certain bond or obligation, &c. G H of, &c. standeth bound to I K of, &c. in the sum of £ — conditioned for the paymt of £ — with int for the same on the as by the condom of the same bond may appear *Now Know all Men by these Prests* That the sd I K doth hby acknge and declare that the sd sum of £ — secured to be pd by the sd obligor was and is all the proper money of I C of, &c. and that his the sd I K's name is used in the sd obligon only in trust for the bent of him the sd I C *In Witness, &c.*

*Recital of
bond.*

Declaration that Trustees of outstanding Terms shall stand possessed in Trust for a Purchaser.

Obs. This declaration is sometimes added in a deed, when the representatives of a deceased trustee are not to be found.

And it is hby concluded declrd and agrd by and betn all the sd pties to these prests that all and evy psn and psns to whom any este trust int term or terms of yrs judgmts statutes recognizances or or. satisfied incumbs or any este heretofore created and now subsisting if any such there be affecting the sd messe or tent heredts and preses mentd and intended to be hby reld or any pt thof either alone or jtly with any or. messes lds tents or heredts and the respive exs and ads of such psn and psns shall henceforth stand seised and be possessed of such este trust int term or terms and or. incumbs resply as far forth as the same relate to or concern the sd messe or tent heredts and preses mentd and intended to be hby reld or any pt thof in trust for the sd (*purchaser*) his hrs and ass and to be disposed of as he or they shall direct or

appt and in the mean time to attend the revn freehd and inhance of the same preses to protect the same from all meanes charges and incumbs if any such there be *In Witness, &c.*

DEFEASANCES.

Definition. § 1. A defeasance, is a collateral deed which defeats the operation of some other deed, 2 Comm. 327; and differs from the common condition of a bond only, in that the one is inserted in the deed itself, (see *Bond*) and the other, is made as a separate deed; ib. 342. Sheph. Touch. Pr. Ed. 396. 2 Saund. 47.

What applicable to. 2. Defeasances are applicable, either to freehold estates, or to terms, or other executory interests; Watk. Conv. Pr. Ed. 196. In regard to freehold estates, the defeasance is merely a condition annexed to the estate on its creation; but the defeasance must be made at the same time with the feoffment, grant, release or other deed; and this deed, so executed, was by the ancient law considered as part of it, and therefore indulged; Co. Litt. 236. A defeasance is, however, now seldom resorted to, as it is much preferable to make the condition apparent in the deed, so that the deed shall be complete in itself; Watk. Pr. 196. Where any thing executory is created by deed, it may by the consent of the parties be defeated and annulled; but it must be done by an instrument of as high a nature, as the one creating the obligation; 2 Saund. 47. Cowp. 47.

Proper words in a defeasance. 3. Every defeasance must contain proper words as that the thing shall be void, 2 Salk. 575, 2 Saund. 48, n. 1. But a letter of licence that the obligor shall not be sued amounts to a defeasance, Carth. 64, though a covenant on a bond not to sue for 99 years does not, Comb. 123. The general words of a defeasance may be restrained by a particular recital in other parts of the same instrument, 2 Saund. 47. If a defeasance recite the bond, recognizance, or other deed, it must be recited truly; as if the deed is recited to be made on the 14th of May, and bears date the 8th of May, the defeasance is in that case void, Sheph. Touch. 397.

Defeasance on giving a Bond and Warrant to confess Judgment.

Obs. A common deed Stamp.

Recitals. *This Indre, &c.* (recite bond and warrant of attorney)
Testatum. Now it is hby decl'd and agr'd by and betn the sd A B and C D that the sd recited warrant of atty is given for the better securing the payment of the sd sum of £ — with int at the time in the sd bond ment'd And therefore the sd A B doth hby covt promise and agree with and to the sd C D his exs and ads that unless deft shall be made in payment of the sd sum of £ — or any pt thof contrary to the condon of the sd bond or obligation

be the sd A B his exs and ads shall not nor will sue out any writ of exon upon the sd judgment to be entered up by virtue of the sd warrant of atty and that upon payment of the sd sum of £ — and int according to the condon afd be the sd A B his exs or ads shall and will at the costs and chas of the sd C D his, &c. cause satisfaction to be ackngd upon record of and for the sd judgment
In Witness, &c.

By indorsement

That execution shall not be sued out until default.

Defeasance endorsed upon a Warrant of Attorney given as a collateral Security with an Annuity Deed.

This Indre, made, &c. Betn A B of, &c. of the one pt and C D of, &c. of the or. pt *Whas* (recite grant of annuity, see *Annuity*) *And whas* the within-written warrant of atty which is referred to by the sd indre is given and exted by the sd A B as a collateral secty for the due and punctual payment by the within-named A B his hrs exs ads or ass of the sd annty yrly rent or sum of £ — to be pd and paye to him the sd C D his exs ads and ass at, &c. by four quarterly, &c. the first paymt, &c. (see *Annuity*) free from, &c. togr with a proportionate pt, &c. and all losses costs, &c. according to the purport true intent and meaning of a certain indre being the indre hnbefe referred to bearing even date with the within-written warrant of atty and made, &c. *Now* it is hby decld and agrd that the judgment to be entered up under and by virtue of the within-written warrant of atty is intended to be entered up as a furr secty to the sd C D his exs, &c. for the paymt of the sd annty or yrly sum of £ — at the times and in manner afd *And* that no exon or exons, &c. (see *Grant of Annuity*) *Provided* nevss and it is hby decld and agrd that in case deflt shall be made in any of the quarterly payments, &c. it shall be lful for the sd C D his exs, &c. to sue out such exon, &c. *And furr* that it shall not be necessary for the sd C D (to revive judgment, &c.) *In Witness, &c.*

On a warrant of attorney.
 Stamp.
 Recitals.

Testatum.

Another (short Form.)

Memorandum that the within-written warrant of atty is given for securing the paymt of the principal sum of £ — with lful int for the same from the within-named A B to the within-named C D by instalments at the times and in manner following that is to say the sum of, &c. pt thof on the day of then next following and the sum of £ — residue of the sd principal, &c. *And* it is hby decld that unless deflt shall be made in paymt of the sd instalments or some or one of them on the days and times above-mentd no exon shall be sued

On a Post Obit Bond out upon the judgment to be entered up by virtue of the within warrant of atty But in case deflt shall be made in any or either of such paymts then it shall be lful for the sd C D to sue out exon for the whole of the principal mney and int which shall be then due on the within warrant of atty togr with costs and all or. chas of levy Dated the day of

A Defeasance upon a Warrant of Attorney given with a Post Obit Bond.

Recitals of contract purchase of a contingent sum of £—,
to be secured by the bond of the vendor,
and two warrants of attorney.
Payment of consideration money.
Judgment not to be entered up until after the decease of, &c.
Testatum.

This Indre, &c. the above-named (*obligee*) hath contracted with the above-named (*obligor*) for the purchase of the sum of £ — of, &c. to be pd to her the sd (*obligee*) her, &c. within six calr mths after the dece of I F in the event of the sd I F departing this life in the lifetime of the sd (*obligor*) but not orwise at the price or sum of £ — And whas upon the treaty for the purchase of the sd contingent sum of £ — it was agrd betn the sd (*obligor*) and (*obligee*) that the same shd be secured by the bond of the sd (*obligor*) bearing even date with the above-written warrant of atty in the penal sum of £ — and by a certain indre also bearing even date with the above-written warrant of atty and made betn the sd (*obligor*) of the one pt and the sd (*obligee*) of the or. pt And that the same should also be furr secured by two several warrants of atty of the sd (*obligor*) for confessing judgmt agst him in an action of debt for the sum of £ — and costs of suit at the suit of the sd (*obligee*) one in his Maj. Ct of K. B. at Westmr and the or. in his Maj. Ct of K. B. in Ireland And in pursuance of the sd agrts the sd (*obligor*) hath extd the above written warrant of atty for confessing judgmt agst him in his Maj. Ct of K. B. at Westmr And whas the sd (*obligee*) hath upon or immly before the sealing and delivery of the above-written warrant of attorney pd to the sd (*obligor*) the sum of £ — And whas upon the treaty for the purchase it was agrd that the judgmt so to be confessed by the sd (*obligor*) in his Maj. Ct of, &c. for the sd sum of £ — and costs of suit as afd shall not be entered of record in the sd court of, &c. until after the dece of the sd I F Now it is hby decld that it shall and may be lful for the sd (*obligee*) to enter up judgment on the afd warrant of atty imnly after the dece of the sd I F if the sd (*obligor*) shall be then living and not before And that the sd judgment to be entered up in pursuance of the before-written warrant of atty is intended to be entered up as a collateral secty only for the paymt of £ — to the sd (*obligee*) her exs, &c. in case the sd (*obligor*) shall be living at the time of the dece of the sd I F at or within

the time hnbefe mentd for paymt thof And that no exon shall be issued or taken out upon the sd judgment unless deft shall be made in paymt of the sd sum of £ — or some pt thof at the time hnbefe mentd for paymt thof And that it shall not be necessary for the sd (*obligee*) her exs ads or ass to revive or cause the sd judgment to be revived or to do any act matter or thing to keep the same on foot notwithstanding, &c. (see *Annuity*) And it is hby also decl'd that after full paymt of the sd sum of £ — in case the same shall become paye or in case the sd (*obligor*) shall die in the lifetime of the sd I F then the sd (*obligee*) her exs, &c. shall deliver up the above-written warrant of atty if not filed to be cancelled and acknge or cause satisfaction to be ackngd on the judgment (if any) which shall be entered up as afd *As witness* the hands of (*Parties*)

To pay
Debts.

A Defeasance by way of Memorandum.

Memorandum that the within-written warrant of atty is given for the securing the paymt from the sd A B to the within-named C D of the sum of £ — and int on the days and in manner following (or, if on a bond, according to the condon of the within-mentd bond) that is to say the sum of £ — And it is agrd by the sd pties that no exon or or. process or proceedings shall be commenced sued out or prosecuted agst the sd A B his hrs exs ads lands goods and chattels nor shall the judgment be entered up in pursuance of the within-warrant of atty until deft shall happen to be made in paymt thof *As witness* our hands the day and year within written

DEMISES.

Obs. A demise is another name for a lease, but it is most commonly applied to deeds by which long trust terms are created at a nominal rent for various purposes.

Demise of real Estates for the Payment of Debts.

This Indre made, &c. Betn (*debtor*) of, &c. of the one pt and (*trustees*) of, &c. creditors of the sd (*D*) and trustees appointed on behalf of themselves and the sevl psns whose names and debts are mentd in the schedule hereunto annexed *Whas* the sd (*D*) by his indre of assnmt bearing date the day of and made or mentd to be made betn the sd (*D*) of the one pt and the sd (*T*) of the or. pt For the consons therein-mentd did bargain sell and ass unto the sd (*T*) sevl debts and sums of money arrears of rent due and owing to the debtor for rent salary and or. accts upon the trusts and to and

To pay Debts. for the ends intents and purps therein particularly specified and mentd *And whas* the sd debts and sums of money will not raise money sufficient to pay all the sums of money appted to be pd in and by the sd in pt recited indre of assnmt *Now this Indre Witnesseth.* That not only for the making of a furr secty for the paymt of the sd sevl debts so mentd to be due and owing from the sd (D) to the sevl psns named in the sd schedule to the sd indre annexed but also for the raising of furr sums of money for the paymt of annties which are charged by the sd (D) on sevl pts of the sd estes hnaft-mentd and for and in conson of the sum of *£s.* to the sd (D) in hand, &c. the rect, &c. He the sd (D) Hath granted bargained and demised and by these prests *Doth grant,* &c. unto the sd (T) *All these* his manors lordships farms lds tents and hereditis *To Have and to Hold* the sd manors, &c. and all and singr or. the preses with their and evy of their apts unto the sd (T) and the survors of them for and during the full end and term of 99 yrs from thence next ensuing and fully to be complete and ended if the sd (D) shall so long live yielding and paying therefore yrly, &c. one peppercorn (if demanded) *subject* nevss to the paymt of one annty or yrly sum of *£—* to C the wife of the sd (D) which is charged on the sd este by the act of parlt some time since passed for settling the estes of the sd (D) and also subject to the paymt of one annty of *£— per ann* to E C during the life of the sd E C which is given him by the will of his late father And it is hby decld and agrd by and betn the pties hereto and these prests are so made and granted to the sd (T) upon this special trust and confidence nevss and to the intent and purpose that they the sd (T) and the survor of them and the exs and ads of such survor do from and immly after the exon of these prests by their letter of atty under their hands and seals authorise and empower W T of, &c. and S A of, &c. or such or. psn or psns as the sd (D) shall from time to time make choice of and direct to get in and rece of and from the sevl tenants and or. psns whose names and sums are mentd and expsd in the second schedule hereunto annexed all and evy the rents and or. sums of money which shall be due and paye to the sd (D) for rent of the sd manors, &c. and preses hby granted and demised or any pt of them from and after the day of now last past and that the sd W T and S A do imtly on rect thereof or of any pt or pcl thereof pay the same into the hands of T S and R S in the names and for and upon the acct of the sd (T) *And upon this furr trust* and confidence that they the sd (T) and the, &c. do issue and pay the same out

to and for the uses intents and purps and in such sort manner and form as is knafir mentd and appted of and concerning the same and not orwise that is to say That they the sd (T) and the survor, &c. shall suffer the sd annty of £ — to be in the first place taken out of the sd rents and prfts of the sd este in the co of N for the sd C or pay the same at such times and in such manner as she is entitled to the same in and by the sd Act of Parlt And that they do out of the remr of the sd rents and prfts pay or cause to be pd unto the sd E C the sd annty of, &c. in such manner as he is entitled to the same under the sd will and from and after paymt of the sd annties that they the sd (T) and the survor, &c. do out of what shall then remain of the sd rents and prfts pay and distribute among the sevl creditors of the sd (D) whose names and debts are mentd and set forth in the sd first schedule hereunto annexed in such manner and in such proportion as the sd (D) with the approbation of the sd (T) and the survor, &c. testified by their or one of them signing such order of the sd (D) shall from time to time direct them so to do until all the sd crs are fully pd and satisfied their sd respive debts And after such debts are fully paid and such charges as they the sd (T) have necessarily been put unto or incurred in and about the management and exon of this present trust are also pd and discharged then these prests and evy thing herein contd shall cease determine and be utterly void and of none effect the sd annties beforementd being from that time to be pd out of and by the rents and prfts of the sd sevl estes out of which they are granted in the same manner as they were before the exting these prests any thing herein-contd to the contrary thereof in anywise notwithstanding *And this Indre furr witnesseth* That for the consons afd and as a furr secty for paymt not only of the sd annties but also of the sd debts so mentd to be due and owing from the sd (D) to his sd crs and also in conson of the sum of 5s. of, &c. to the sd (D) in, &c. pd the rect, &c. He the sd (D) *Hath* bargained sold, &c. assd, &c. and by, &c. *Doth* bargain, &c. all and evy the debts sum and sums of money annuity or salary, &c. and all the este right title int property prft bent advantage claim and demand whater of him the sd (D) of in to and out of the sd hby assd preses and evy pt and pcl thereof *To Have Hold* rece and take the sd sevl debts sums of money and all and singr or. the preses hby assd or intended so to be unto the sd (T) their exs ads and ass Upon the same trusts and to and for the same or the like uses intents and purps as are before herein decld of and concerning the

*To pay
Debts.*

*To secure
Mortgage
Money.*

sd rents and prfts of the sd real estes hnbefe granted and demised or intended so to be except only as to the paymt of the sd annities which are charged on sufficient estes for securing the same And to the intent that the sd (T) may be the better enabled to recover and rece the sd rents and prfts of the sd estes and the sevl debts sums of money and salary he the sd C D hath made constituted, &c. (power of attorney, see *Composition*) And the sd (D) for himself, &c. doth, &c. covt, &c. with, &c. the sd (T) and the, &c. (not to rece rents, &c.) *In witness, &c.*

*Demise for 1000 Years for securing the Payment of
Mortgage Money.*

This Indre made, &c. Betn (*mortgagor*) of, &c. of the first pt (*mortgagee*) of, &c. of the second pt and (*trustee*) of, &c. of the third pt *Whas* the sd (*mortgagor*) is indebted in the sum of £— and for securing the sd sum and int the sd (*mortgagor*) hath agrd to grant and demise to the sd (*trustee*) as a trustee for the sd (*mortgagee*) the messes, &c. hnaft described *Now this Indre Witnesseth* That in pursuance of the sd agrt and in conson of the preses and also in conson of 10s. by the sd (T) to the sd (*mortgagor*) in, &c. pd the rect, &c. He the sd (*mortgagor*) at the instance and request of the sd (*mortgagee*) testified, &c. *Hath* granted and demised and by, &c. *Doth* grant, &c. unto the sd (T) his exs ads and ass *All those* the messes lds and hereds situate, &c. which under or by virtue of the will of (*testator*) late of, &c. decd being a will bearing date, &c. and proved on or about, &c. are subject to the gift made by the same will to or in favour of G H now decd father of the sd (*mortgagor*) which sd messes lds and hereds do now consist of the sevl parlars mentd in the schedule here-under written And also all the, &c. (recite parcels fully) And all the este, &c. And the revn, &c. *To Have and to Hold* the sd messes, &c. and all and singr or. the preses hby granted and demised unto the sd (D) his exs ads and ass for and during the term of 1000 yrs yielding, &c. one peppercorn, &c. *Provided always* (Proviso for redemption and cesser of term, see *Grant of Annuity or Mortgage by Demise*) And it is hby decld and agrd, &c. (Declaration that until default mortgagor shall quietly enjoy) *In Witness, &c.*

Demise of an Advowson in Trust to present to a Living.

This Indre made, &c. Betn H W of, &c. H W the eldest son of the sd H W and S W youngest son of the sd H W

the elder of the one pt and A W of, &c. of the or. pt
Witnesseth That for and in conson of 5s., &c. and for
 divers or. good and valuable consons them thereunto
 moving they the sd H W, H W and S W *Have* and each
 of them *Hath* granted and demised and by, &c. *Doth*
 grant, &c. unto the sd A W his exs, &c. *All that* the
 advowson free disposing and right of presentation of in
 and to the rectory of the parish and parish church of C
To Have and to Hold the same advowson, &c. with the
 apts unto the sd A W his exs, &c. from the day of
 now next ensuing for and during the full end and
 term of sixty yrs from thence next ensuing and fully
 to be complete and ended *yielding*, &c. therefore one,
 &c. *And* it is hby agrd and decl'd by and betn the pties
 hereto and the true intent and meaning of them and
 these prests resp'y is that the sd advowson donation free
 disposition and right of presentation to the sd parish and
 parish church of C hby granted and demised to the sd
 A W his exs, &c. for the sd term of yrs as afd are
 granted and demised Upon the trusts following that is
 to say *Upon Trust* that he the sd A W his exs, &c. shall
 stand and be possessed of and interested in the sd ad-
 vovson and preses during the sd term *In Trust* upon
 the next vacancy or avoidance of the sd church (in case
 the sd S W shall be then living) to present the sd S W
 being duly qualified according to law to be rector or
 vicar of the sd church to the bishop of the diocese or
 or. ordinary of the place in order to his being instituted
 and inducted into the sd rectory vicarage or church
Provided always and these prests are upon this express
 condon that upon the sd S W being instituted and in-
 ducted into the sd rectory vicarage or church of C as
 afd then these prests and the grant and demise hby
 made to the sd A W shall cease determine and be
 utterly void and of no effect as if the same had never
 been made any thing hnbefe cont'd to the contrary there-
 of in any wise notwithstanding, &c. *In Witness*, &c.

*Of Ad-
 vovson.*

Testatum.

Habendum.

Upon trust.

Cesser of
 term.

DEPUTATION.

§ 1. A deputy is one who exercises an office in another man's right, and a deputation is the appointment of a deputy; 1 Lill. Abr. It seems that the steward of a manor cannot appoint a deputy, unless authorized by a custom, or by the express terms of his appointment, Co. Cop. sect. 46; 2 Watk. Cop. 17, Cov. Edit.; Gilb. Ten. 284; but a deputy steward may do any act which his principal might have done, except make a general deputy; but both a steward and an under steward may authorize another, either by deed or parol, to

DEPUTATION.

hold a court, or do any particular act *pro hac vice*; 4 Co. 30. *Lord Dacre's Case*; 1 Leon. 288. *Parker v. Kell*; 1 Ld. Raym. 658. As to the delegation of an authority generally, see further *Appointments*, Pref. § 13. Also as to the appointment of a gamekeeper and steward, see *Appointments*.

General Deputation from a Steward to a Deputy.

To all to whom these prests shall come I (steward) of, &c. gent. send greeting Whas A B esq. lord of the manor of, &c. by his deed poll bearing date, &c. Did depute constitute and appt me the sd (S) to be his steward of his manors of, &c. and did give and grant unto me and my sufficient deputies to be by me in that behalf appted full power and authty to hold and keep all and singr his courts leet views of frank pledge courts baron and customary and or. courts within the limits and precincts of his respive manors in the sd counties of *Now know ye* That I the sd (S) by virtue of the power and authty given me by the sd A B by these prests constitute and appt W S of, &c. gent. my deputy steward to do perform and exte the sd office in my stead and place in all things as effectually as if I myself were personally present at the doing thereof he the sd W S duly accounting to me for all fines heriots and profits of the sd courts and also for all fees and perquisites from the same when he shall be by me required so to do (a) In witness whereof I the sd steward have this day set my hand and seal the day of

Deputation of an under Deputy for the special purpose of holding a Court and taking a Surrender to the Use of a Will.

Know all men by these prests That I (steward or deputy steward) of, &c. do hby constitute and appt R S my deputy to hold and keep a special court for the sd manor on the day of or on some day before the day of next ensuing the date hereof and then and there to accept and take of G L a copyhold or customary tenant of the sd manor a surrender by the rod of all and singr his copyhd or customary lds and tents and heredts within and held of the sd manor to such uses trusts intents and purps as the sd G L shall in and by his last will and testmt already made or hraft to be made direct give limit or appt the same and furr to

(a) If a *reddendum* be added, say, 'but nevrs yielding and paying therefore unto me the sd (S) yrly and evy yr during the sd term the clear yrly sum of £ — of, &c. on the day of n evy yr.'

do and exte the sd office in my stead and place as effectually as if I were then present In witness whereof I have hereunto set my hand and seal the day of

Another to take a Surrender out of Court from a Man and his Wife.

Know all men by these prests That I, &c. do make, &c. A B of, &c. my deputy for the special purpe and turn only of accepting a certain surrender already prepared and bearing even date herewith from C D and M his wife of *all that*, &c. And I do hby authorize and empower him the sd A B as my steward to examine the sd M D separately and apart from her husband as to her free and voluntary consent and furr to do, &c. *In Witness, &c.*

Another to admit an Heir at Law, and afterwards take a conditional Surrender.

Know all, &c. That I (steward, &c.) of, &c. do, &c. make, &c. to hold and keep a court for the manor, &c. for the purpe of admitting C F the eldest son and heir at law of C F the elder decd late a copyhd and customary tenant of, &c. to all and singr the preses of which the sd C F died seised that is to say (*parcels*) And immly after his admission to accept and take a surrender by the rod of all and singr the sd preses to the use and behoof of R N his hrs and ass for ever but with a condon that the surrender shall be void on payment of the sum of £ — and int for the same And furr to do, &c. *In Witness, &c.*

Another to admit a Tenant of a Copyhold for Life on the Death of the first Life, and putting in a fresh Life.

Know, &c. That I, &c. do, &c. make, &c. to hold, &c. for the special purpe of admitting C D the life next in succession after the death of A B whose death was presented at a court held for the sd manor on, &c. tenant to all that copyhold messe, &c. And immly after to accept and take from the sd C D a surrender by the rod of all and singr the sd preses to the intent that the same lord of the sd manor may regrant the same preses to the sd C D for the term of his natural life and the lives of C D and G D sons of the sd C D aged yrs or thereabouts and aftwds to admit the sd C D on such regrant of the sd land And furr to do, &c. *In Witness, &c.*

DISCLAIMERS.

Obs. A disclaimer is the denial or renunciation of a claim or interest which is conveyed or devised to a person; when it applies to the renouncing a trust or office, as of a trustee or executor, it is properly called a renunciation (see *Renunciation*.) A disclaimer need not be a matter of record. A devisee in fee may disclaim by deed the estate devised to him; *Townson v. Tickell*; 3 B. & A. 31.

Disclaimer of an Estate devised.

Obs. A common deed stamp.

Know all men by these prests That I (devisee) of, &c. Do hby declare that I have disagreed and do disagree to the sd devise of the sd manor and do hby disclaim all este and bent therein by virtue of the sd devise In Witness, &c.

DISTRESS.

A distress is the taking of a personal chattel, without legal process, from the possession of a wrong doer into the hands of the party grieved. The recovery of rent in arrear is the principal cause of distress, but there are many other causes at common law, as for suits and services at the lord's court, beasts found, *damage feasant*, &c. The making a distress being considered as a legal demand, no other demand is requisite to give the landlord a right of distress, unless the reservation in the lease requires a special demand; *Brown v. Dunnery*, Hob. 208. *Kidwelly v. Brand*, Plowd. 69. The several proceedings upon a distress will be more fully explained under the following forms, none of which require any stamp. See *Gilbert on Distress*, Hunt's Edit.; *Bradby on Distress*.

Warrant of Distress.

Obs. A warrant of distress is the written authority given to a bailiff to distrain by the person to whom the rent is due. Nothing less than a writing (it is presumed, in the absence of any express decision on the subject) is sufficient to give this authority, but it is not necessary to be by deed; *Anonym.* 1 Salk. 191. It must, however, be signed by the person (or, if several, by all the persons) entitled to the rent under whom the bailiff may afterwards justify, or, as it is termed, make cognizance in the replevin; *Buller's Case*; 1 Leon. 50.

I hby authorize and require you to distrain the goods and chattels in the dwelling-house (or, 'in and upon the farm' or 'lands') and preses of A B situate at
in the co. of for £ — being yrs rent due

to me for the same at last and to proceed for the
recovery of the sd rent as the law directs Dated the
day of 18

Notices.

To E F, my bailiff

Yours, &c.

C D

An Inventory of the Goods distrained.

Obs. As soon as the distress is made, an inventory should be prepared.

An inventory of the ('cattle and the') sevl goods and chattels distrained by me (or 'E F bailiff to Mr. C D') this day of in the yr, &c. 18 in the dwelling-house (or 'farm' or 'lands') and preses of A B situate, &c. at in the co. of (if by the bailiff, say, 'by the authty and on the behalf of the sd C D') for the sum of £ — being yrs rent due to me (or 'to the sd C D') at last

Dwelling-House.

In the kitchen, *one table*, &c. (set out the things fully)

Notices of Distress.

Obs. 1. The notice of distress ought to be subjoined to the above inventory.

2. The 2 W. and M. c. 5, which requires notice to be given to the tenant, does not require it to be given in writing, and consequently a parol notice is good; *Walker v. Rumbald*, 12 Mod. 76; but if it be not given personally, it should be left in writing at the tenant's house or other most notorious part of the premises charged with the rent. The notice need not state accurately when the rent became due; *Moss v. Gallimore*, 1 Dougl. 279; nor need the cause of taking to be accurately expressed; *Crowther v. Ramsbottom*, 7 T. R. 654; *Etherton v. Popplewell*, 1 E. 142.

3. If the goods are removed, it must be stated in the notice where they are removed to.

4. Distress for rent being in the nature of a pledge, the distrainer had no power to sell by the common law; but by the 2 W. and M., and the 11 G. II. c. 19, the distrainer is empowered to sell at the end of the fifth day.

Notice of Distress (General Form.)

Mr. A B

Take notice that I (or 'I, as bailiff of Mr. C D, your landlord') have this day distrained on the preses above mentd the (cattle) goods and chattels specified in the above inventory for the sum of £ —

DISTRESS.

Notices. being yrs rent due, &c. And that unless you pay the sd rent with the chas of distraining within five days from the date hereof the sd (cattle) goods and chattels will be appraised and sold according to law Given under my hand this day of 18 C D

Another for Arrears of a Rent-Charge.

Mr. A B

Take notice that by the order and on behalf of C D I have this day taken and distrained in and upon the farm and lds called in your occupation in the parish of and county of all the corn grain and effects in the inventory hereunder-written for the sum of £ — being yrs annuity or rent-charge of £ — per annum due to the sd C D at last and charged on and issuing and paye out of certain manors farms lds and preses called in the parish, &c. and of which the farm and lds first above-mentd are pt and pcl and that unless the sd arrears of the sd annty or rent-charge togr with the exps of this distress be pd and satisfied the sd corn grain and effects will be disposed of according to law Given, &c.

To Mr. A B and all whom it may concern

Another for growing Crops.

Obs. Corn could not be taken in distress after it was cut until the 2 W. & M. c. 5, s. 3, nor growing crops until the 11 G. II. c. 19, s. 8. The latter statute requires notice to be given to, or left for the tenant, of the place where the goods are lodged within one week.

Mr. A B

Take notice that I (or 'I, as bailiff of,' &c.) have this day distrained on the lds and preses above-mentd the several growing crops specified in the inventory for the sum of £ — being two quarters' rent due to me (or 'to the sd C D') at last for the sd lds and preses and unless you previously pay the sd rent with the chas of distraining for the same I shall proceed to cut gather make cure carry and lay up the crops when ripe in the barn (or 'in some or. proper place on the preses' or 'in the barn situate at' as the case may be) And in convenient time sell and dispose of the same towards satisfaction of the sd rent and of the chas of such distress appraisement and sale according to the form of the statute in such case made and provided Given, &c.

*Consent
by Tenant*

Notice to the Sheriff of the Landlord's Claim for Rent.

Obs. As goods already taken in execution cannot be distrained, the landlord, in that case, must give notice to the sheriff, under the 8 Anne, c. 14. None but the immediate landlord can give such notice, the statute not entitling the ground landlord to his rent; *Bennet's Case*, 2 Stra. 787. And when the landlord omits to give this notice, the sheriff is not bound to retain the rent on his account; *Waring v. Dewberry*, 1 Stra. 95; *Palgrave v. Windham*, 13. 214.

To A B esq.

I do hereby give you notice that there is now due to me from C D the pson to whom certain goods belong of which you are now in posson under and by virtue of a writ of *feri facias* (or, &c. *as the case may be*) returnable, &c. the sum of £ — for the rent of one yr (or or. less period of time) and which sum I hereby give you notice to pay to me before such goods be removed from the preses Dated, &c.

E F, landlord

Consent by a Tenant that Goods distrained may remain on the Premises beyond the Time allowed by Law.

Obs. By the common law, it was the duty of the distrainer to remove the goods from the premises within a convenient time; but by the 11 G. II. c. 19, amending the 2 W. & M., the landlord is authorized to impound the goods distrained in any convenient part of the tenant's ground, to remain there during the space of five days, when they are to be sold, unless sooner replevied by the tenant. If under this act the goods remain longer than the five days without the tenant's consent, the landlord is a trespasser; *Griffin v. Scott*, 1 Ld Raym. 142, S. C. 2 Stra. 717; *Dod v. Munger*, 6 Mod. 215. It is usual for the tenant to give his consent for their remaining longer on the premises in the custody of the distrainer, or a person appointed by him for that purpose, and this consent ought to be in writing.

Memorandum—That I, A B do hereby consent and agree that C D my landlord who hath distrained my goods and chattels in the sd dwelling, &c. situate at in the county of shall continue in posson of my goods and chattels in the sd dwelling-house for the space of days from the date hereof he the sd C D having agrd to forbear the sale of the sd goods and chattels for the same space of time to enable me to discharge the sd rent And I the sd A B do hereby agree to pay the exps of keeping the sd posson As witness my hand the day of in the yr, &c. 18

A B

*Appraise-
ment of
the Goods.*

Appraisement.

Obs. Before the goods are sold, the 2 W. & M. requires them to be appraised by two sworn appraisers, whom the sheriff, under sheriff, or constable may swear. The oath must be administered in the presence of some person who is to attest it. To prevent ruinous and excessive charges in the execution of distresses for small rents, the 57 G. III. c. 93, limits the charges as follows, namely—for levying the distress, 3s.; man in possession, 2s. 6d. per day; appraisement, 6d. in the pound; stamp, the lawful amount thereof (*i. e.* 2s. 6d.); advertisements, 10s.; catalogues, 1s. in the pound on the net produce of the goods. And a copy of the charges must be given to the person distrained upon.

Oath administered to the Appraisers.

Obs. The constable or person administering the oath holds the inventory in his hand.

You and each of you shall well and truly appraise the goods and chattels mentd in this inventory according to the best of your judgment So help you God

Memorandum of the Oath administered to the Appraiser.

Memorandum—That on the day of in the
yr of our Lord 18 G H and I K two sworn ap-
praisers were sworn upon the Holy Evangelists by me
L M of, &c. constable well and truly to appraise the
goods and chattels mentd in this inventory according
to the best of their judgment As witness my hand

L M, Constable

Present at the time }
of swearing the sd G H } R S
and I K as above and }
witness thereto

Appraisement by the two Appraisers.

Obs. The memorandum and the appraisement are usually sub-joined to the inventory.

We the above-named G H and I K being sworn upon the Holy Evangelists by L M the constable above-mentd well and truly to appraise the goods and chattels mentd in this inventory according to the best of our judgment having viewed the sd goods and chattels do appraise and value the same at the sum of £ —

As witness our hands, &c.

G H

I K

Sworn Appraisers

Bargain and Sale of Goods distrained for Rent.

*Power of
Attorney
to Dis-
train.*

Obs. When the goods are valued, they are usually bought by the appraiser ; but in order to prove the transaction, it is advisable to have a regular bargain and sale, or bill of sale, between the landlord and the person who swears the appraisers, and the appraisers themselves, or the purchasers.

This Indre, made, &c. Betn (landlord) of, &c. of the first pt (constable) of, &c. of the second pt and (appraisers the purchasers) of, &c. of the third pt *Witnesseth* That it is affirmed by the sd (L) that on the day of last past he did enter into a messe and lds called S — farm in H — within the hundred of and for £ — rent at the feast of last past due to him the sd (L) from S F upon a demise whby the sd S F held the sd farm of the sd (L) and did distrain there and found the goods and chattels following to wit (recite particulars, or say, 'the goods and chattels in the inventory hereunder-written mentd and specified) *And it is hby furr Witnessed* by the sd (C) and the sd G H and I K upon their oath sworn before the sd constable that after such distress taken to wit on the day of last past the sd (L) did at the chief mansion house of the sd farm give public notice of the sd distress and the cause thof and a note in writing expressing the parlars of such goods and chattels distrained and of the sd rent for which the same were so distrained did then and there deliver unto F daur of the sd A B and (A) upon their oaths afd have truly appraised all the sd goods and chattels distrained at L — *And this Indre furr Witnesseth* That the sd goods being yet unreplevied the sd (L) with the constable afd for and in conson of £ — being the best price that can be gotten for the sd goods and chattels by the sd (P) pd to the sd (L) towds satisfaction of the sd rent for which the sd goods and chattels were distrained *Have bargd*, &c. and by, &c. *All* the goods and chattels hnbeft mentd to be distrained *To Hold* unto the sd (P) as their only proper goods and chattels for ever *In Witness*, &c.

Power of Attorney to Distrain.

Know all, &c. That I, A B of, &c. *Have made*, &c. and by these prests *Do make*, &c. C D of, &c. and E F of, &c. my true and lful attorney and in my name place or stead to enter into and upon all that messe, &c. situate, &c. and now in the occupation of G H his under tenants or ass and held by him of me at or under

*Power of
Attorney
to Dis-
train.*

the yrly rent of £ — and to make or cause to be made one or more distress or distresses of all or any hay corn goods chattels beasts sheep or or. effects or things whater standing lying or being in and upon the sd demised preses or any pt thof for all such rent or rents that was or were and now is due and owing to me up to Michaelmas day last past for or on acct of the sd preses or any pt thof and such distress or distresses when made or taken for me and on my behalf to hold detain and keep until payment and satisfaction to be made for all such rent due and in arrear to me and all costs and chas of making such distress And in case of nonpaymt thof within the time limited by the laws now in force to appraise sell and dispose of the same or cause the same to be appraised sold and disposed of according to law I the sd A B giving and granting unto my sd atties and atty jtly and sevlly full power and authty for me and in my name and behalf to do or cause to be done all such acts touching and relating to the sd preses as fully, &c. And whater my sd atties or atty or either of them shall lfully do or cause to be done in or about the preses I hby for myself my hrs exs and ads agree to allow ratify and confirm *In Wit-ness, &c.*

Warrant to Distrain for Copyhold Rents.

The Manor of S — in } Memorandum—This day
the county of N — } of in the, &c. 18 I,
G L esq. lord of the sd manor of S — have made, constituted, &c. R L of, &c. my true and lful atty and bailiff to demand and rece of all and evy my copyhd tenants the sevl and respive rents to me due and in arrears And I do hby authorize him the sd R L to levy the sd copyhd rents by distress of the goods and chattels of the sevl psns who shall refuse or neglect to pay the same And I desire all my copyhd tenants and ors within the sd manor to be aiding and assisting to my sd bailiff in discharge of his sd office *In Witness, &c.*

Deputation to grant Replevins.

Obs. 1. A replevin is a remedy grounded on a distress, being a redeliverance of the thing distrained to remain with the first possessor. The writ, or action of replevin, is also called a replevin.

2. By the 1 and 2 P. and M. c. 12, s. 3, a sheriff is required to make four deputies at least to grant replevins for the ease of the county.

Know all men by these prests That I, A B esq. high sheriff of the county of (or 'county palatine') do

hby appt C D gent. one of the deputies for making or granting replevins within the sd county pursuant to the statute in that case made and provided And for so doing this shall be a sufficient warrant and authty Given under the seal of my office of sheriff the day of 18

By the same

A B Sheriff

Replevin Bond.

Replevin Bond.

Obs. The 11 G. II. c. 19, s. 23, requires the sheriff to take a bond from the person distrained upon, and two sureties.

Know all Men by these Prests That we A B of, &c. C D of, &c. and E F of, &c. are jtly and sevlly held and firmly bound to S S esq. sheriff of the co of in the sum of £ — (a sufficient sum to cover the value of the cattle or goods distrained, if taken *damage feasant*, or if for rent, then double the value of the cattle or goods taken, to be ascertained on the oath of one witness) of lful, &c. to be pd to the sheriff or his certain atty exs ads or ass for which paymt to be well and truly made we bind ourselves and each and evy of us and evy of our hrs exs and ads firmly by these prests Sealed with our seals dated, &c.

The Condition of this Obligation is such That if the above-bounden A B do appear at the next county court to be holden for the county of at on the day of next and doth then and there prosecute his suit with effect and witht delay agst C D for taking and unjustly detaining of his cattle goods and chattels to wit (state cattle or goods distrained) and make return of the sd cattle goods and chattels if a return thereof shall be adjudged Then, &c. Condition.

Assignment of a Replevin Bond.

Obs. The 11 G. II. c. 19, s. 23, authorizes the sheriff to assign the bond to the avowant, or the person making cognizance, and this may be done without any stamp, but it must be stamped before any action can be brought.

Know all Men by these Prests That I, A B esq sheriff of the county of have at the request of the within named C D the avowant (or, 'the psn making cognizance') in this cause assd over this replevin bond unto him the sd C D pursuant to the statute in such case made and provided In Witness whereof I have hereunto set my hand and seal of office (or, if late sheriff, say 'seal' only) this day 18

Sealed

A B

(L s)

DOWER.

Seisin not necessary to give a title to dower.

§ 1. Seisin, either in law or in fact, was, under the old law, absolutely necessary to give a woman a title to dower out of her husband's lands, 1 Inst. 31, a.; a mere right would give no such title, Perks. 360, 367; but now, by the 3 & 4 W. IV. c. 105, s. 3, when a husband is entitled to a right of entry or action in respect to any lands, and the widow asserts her claim within the time limited by law, she will, provided they have been married since the 1st of January 1834, be entitled to dower out of such lands, although the husband shall not have obtained possession thereof. So, likewise, under the old law, a woman was not dowerable of a trust estate, nor of an equity of redemption, *Chaplin v. Chaplin*, 3 P. Wms. 56. *Goodwin v. Winsmore*, 2 Atk. 626. *Dison v. Saville*, 1 B. C. C. 326; but now, by the Dower Act, (§ 2) the distinction between legal and equitable estates, as to the right of dower, is done away.

Old and new modes of barring dower.

2. As the seisin of the husband, at any time during the coverture, gave the wife a title to dower, it was formerly the practice, in the conveyance of any lands, to convey the estate to a trustee, in trust for the purchaser, in such manner as to prevent the legal estate from vesting in him, so as to make the land subject to his wife's dower; but now, by the Act, (§ 6), any declaration in a deed executed to the husband during his life, will have the effect of defeating the wife's right to dower; but as the Act was not to come into operation before the 1st of January 1834, the right of any widow to dower, who was married on or before that day, cannot be defeated by any other than the old form of limitations to uses. Such a limitation, however, will not have the effect of barring dower under the new Act; it will, therefore, be prudent to obviate all questions, by adding a declaration to bar dower.

Extinguishment of dower.

3. Where a right of dower has already attached, it seems that any disposition by the husband, or any declaration in a deed by which he conveys his estate, will, under the new Act, (§ 4 & 6), extinguish her right to dower, and any estate created by him, (§ 5) will be valid as against her right to dower; but this, it is presumed, must, under the 3 & 4 W. IV. c. 74, be effected with her concurrence. The Dower Act, speaks only of the acts of the husband, but this latter Act speaks of the acts of both. Under the old law, a wife's right to dower could not be extinguished by any thing less than a fine; so by this Act, (§ 79, *et seq.*) the deed which is to be substituted for a fine, and by which a married woman parts with any estate, or interest in land, must be acknowledged and consented to with all the solemnities required by the old law. It is presumed, therefore, notwithstanding the seeming variance between the two Acts, that the concurrence of the wife is indispensably requisite to give effect to any deed by which her right of dower, when it has once attached, is to be extinguished; and that were it only a doubtful point, it would not be safe to depart from the established practice of making her a consenting party. (See *Precedent*.)

Conveyance by Appointment and Release from a Vendor to a Purchaser, who was married on or before the 1st of January 1834; where the Estate had been conveyed to the Vendor to bar Dower. (Old Form.)

This Indre made, &c. Betn (vendor) of, &c. of the

first pt (*trustee for the vendor*) of, &c. of the second pt (*purchaser*) of, &c. of the third pt and (*trustee for purchaser*) of, &c. of the fourth pt *Whas* by indres of lease and rele bearing date resply the and days of 18 the rele being made betn I C therein described of the first pt the sd (*V*) of the second pt and the sd (*T*) of the third pt the messes or tents pieces and pcels of ld hnaft described were togr with or. hereditis conveyed and assured to such uses upon such trusts and in such manner as the sd (*V*) by any deed or instrument in writing should direct limit or appt and in deft of or until such apptmt to the use of the sd (*V*) and his ass during the term of his natural life witht impeachment of waste And after the determination of that este by any means in his lifetime to the use of the sd (*T*) his exs ads and ass during the life of and in trust for the sd (*V*) and his ass with remr to the only use of the sd (*V*) his hrs and ass for ever *And whas* the sd (*P*) hath contracted with the sd (*V*) for the absolute purchase of the messes or tents pieces or pcels of land hnbef described and the inhance thof in fee simple free from incumbrances at the price or sum of £ — *Now this Indre Witnesseth* That in pursuance, &c. and in conson of, &c. by the sd (*P*) at, &c. to the sd (*V*) in, &c. pd the rect, &c. and that the same is in full of the conson money for the absolute purchase of the sd messes, &c. hnaft described the sd (*V*) doth, &c. He the sd (*V*) pursuant to and in exon of the power or authty to him given or reserved in and by the sd in pt recited indre of rele and by force and virtue of evy or. power in him vested or in anywise enabling him in this behalf *Hath* directed limited and appted and by this deed or instmt in writg by him sealed and delivered in the presence of and attested by two credible witnesses *Doth* direct limit and appt that the sd messes or tents pieces or pcels of ld hnaft mentd and expsd to be hby granted and reld with the appts shall henceforth remain continue and be to for and upon the uses trusts intents and purps hnaft limited expssd and decld of and concerning the same *And this Indre furr Witnesseth* That in furr pursuance of the sd agrmt and in conson of the preses He the sd (*V*) *Hath* granted, &c. and hy, &c. Doth grant, &c. unto the sd (*P*) [in his actual posson, &c. see *Release*] his hrs and ass *All those* messes, &c. togr with all houses, &c. (see *Release*) and the revn, &c. and all the este, &c. *To Have and to Hold* the sd messes, &c. and all and singr or. the preses hby granted, &c. unto the sd (*P*) and his hrs to the use of the sd (*P*) and his ass during the term of his

*Convey-
ance in
bar of
Covenants
for Title.*

*Recital of
conveyance
to vendor
and trustee.*

Testatum.

*Appoint-
ment.*

*Further
Testatum.*

Habendum.

Convey- ance in bar of	<p>natural life witht impeachment of or for any manner waste and after the determination of that este by forfeiture or orwise in his lifetime to the use of the sd (T) his exs ads and ass during the life of the sd (P) in trust for him the sd (P) and his ass and to prevent any wife of the sd (P) from being entitled to dower in or out of the sd preses and after the dece of the sd (P) to the use of his hrs and ass for ever (a) And the sd (T) for himself his hrs exs ads and ass doth hby covt promise and declare with and to the sd (P) his hrs exs ads and ass That he the sd (T) hath not at any time heretofore made done committed or exted or knowingly or willingly permitted or suffered or been pty or privy to any act matter deed or thing whatsr whby or by means whereof the sd messes or tents pieces or pcls of ld hby appted granted or reld or orwise assured or intended so to be or any of them or any pt thof is are can shall or may be in anywise surrendered impeached charged or encumbered in title charge or este or orwise howsr And the sd (V) doth hby for himself his hrs exs ads and ass covt, &c. with, &c. the sd (P) his hrs apptees and ass in manner following that is to say That for and notwithstanding any act matter or deed whatsr by him the sd (V) or any psn or psns lfully claiming under or in trust for him made done committed or exted or knowingly or willingly suffered to the contrary the power or authty hnbeffe created by the sd in pt recited indre of is at the time of the exon of these prests in full force and virtue and in no wise suspended extinguished merged or become void or voidable And that they the sd (V) and the sd (T) or one of them now have or bath in themselves or himself good right full power and lful and absolute authty to direct limit and appt grant rele and convey the sd messes, &c. and preses hby appted and reld or intended so to be with their appts unto the sd (P) his hrs apptees and ass to the uses and in manner afd And furr that it shall be lful for the sd (P) his hrs apptees and ass from time to time and at all times quietly, &c. (see Release) And that free and clear, &c. (free from incumbrances) And moreover that he the sd (V) and all and evy psn, &c. shall</p>
Covenant from trustee.	
Covenants for title.	
Power of appoint- ment sub- sisting. Vendor or trustees have good right to convey.	
Quiet en- joyment.	

(a) Or, according to a rather more convenient and usual form, say, 'To Hold unto the sd (P) and his hrs but to the use of such psn or psns and for such intents and purps as the sd (P) shall by any deed or will or or sufficient writing direct or appt and in deft thof to the use of the sd (P) and his ass for his life with remr to the use of the sd (T) his exs ads and ass during the life of the sd (P) in trust nevrs for the sd (P) and his ass with remr to the sd (P) his hrs and ass for ever so as to prevent any wife of the sd (P) from being entitled to dower in and out of the sd preses'

and will upon evy reasone request and at the proper costs and chas in the law of the sd (P) his hrs apptees and ass make do, &c. all such furr, &c. acts, &c. for the furr better, &c. granting, &c. the sd messes, &c. unto and to the use of the sd (P) his hrs apptees and ass as he or they, &c. (see Release) *In Witness, &c.*

Convey-
ance
to Ex-
tinguish.

Conveyance from a Vendor to a Purchaser who has been married since the 1st of January 1834. (New Form)

This Indre made, &c. Betn (vender) of, &c. of the one pt and (purchaser) of, &c. of the or. pt *Whas* (recite aisia, &c. of vendor) *And whas* (recite contract for sale. See last precedent) *Now this Indre Witnesseth* That in pursuance of the sd contract and in conson of the sum of £ — in hand well and truly pd by the sd (P) to the sd (V) at or before the sealing and delivery of these prests the sect whereof and that the same is in full of the conson money for the absolute purchase of the inhance in fee-simple of the sd messe, &c. free from all incumbs the sd (V) doth hby acknge and of and from the same and evy pt thof doth acquit rele and for ever discharge the sd (P) his hrs exs ads and ass He the sd (V) *Hath* granted bargained sold aliened and reld and by these prests *Doth* grant, &c. unto the sd (P) [in his actual posson being, &c. see Release] his hrs and ass *All that* messe, &c. And all houses, &c. (general words, see Release) And the revn, &c. And all the este, &c. of him the sd (V) of into and out of the same messe, &c. And all deeds, &c. *To Have and to Hold* the sd messe or tent lds and hereds and all and singr or. the preases hby granted and reld or orwise assured or intended so to be with the rights members and apts thereunto belonging or appertaining unto the sd (P) his hrs and ass for ever *And it is* hby decltd that the present or any future wife of the sd (P) who shall happen to survive him the sd (P) shall not be entitled to dower out of the sd messes and preases hby granted and reld *And the sd (V) for himself* his hrs, &c. doth hby covt, &c. with, &c. the sd (P) his hrs and ass in manner following that is to say (covenants for title, see Release) *In Witness, &c.*

Recitals.

Testatm.

Habendum.

Declaration
to bar
dower.

Covenants
for title.

Conveyance by Bargain and Sale from a Vendor to a Purchaser, where the Wife joins to extinguish her Dower.

Obs. As to the necessity of making the wife a consenting party in a case of this kind, see Pref. § 3, (and *Fines and Recoveries*, Pref. § 9.) As the deed in such a case, must be enrolled, a bargain

Convey-
ance
to Ex-
tinguish.

and sale seems to be the preferable mode, where it is not necessary to convey to a releasee to uses to bar dower. The time of the marriage, is immaterial in a case of this kind, where the right of dower has already attached.

Testatum.

Covenants
for title.

Quiet en-
joyment.

Free from
incum-
brances.

Further
assurance.

Wife to ac-
knowledge
deed.

This Indre made, &c. Betn (vondor) of, &c. and M his wife of the one pt and (purchaser) of, &c. of the or. pt Witnesseth That for and in conson of the sum of £ — to the sd (V) in hand well and truly pd by the sd (P) at or before the sealing and delivery of these preasts in full for the absolute purchase of the inheritance in fee-simple of and in the messes or tents, &c. hnaft granted and bargained or mentd so to be the rect whereof, &c. He the sd (V) and M his wife Have and each of them Hath granted bargained and sold and by, &c. Doth grant, &c. unto the sd (P) his hrs and ass All those, &c. (parcels) And all houses, &c. (general words, see Release) And the revn, &c. And all the este, &c. of him the sd (V) and M his wife and either of them of in, &c. To Have and to Hold the sd messes, &c. and all and singr or. the preses hby bargd and sold or orwise assured or intended so to be with their and evy of their rights members and apts unto the sd (P) his hrs and ass to the only proper use of the sd (P) his hrs and ass for ever absolutely freed and discharged from all title to dower of her the sd (wife) wife of the sd (V) out of the same heredts and preses And the sd (V) doth hby for himself his hrs, &c. covt, &c. with, &c. the sd (P) in manner following that is to say That for and notwithstanding any act, &c. (he is lawfully seised, &c. see Release) And that for and notwithstanding, &c. (hath good right to bargain and sell, &c.) And also that it shall and may be lful to and for the sd (V) his hrs, &c. peaceably and quietly to have, &c. without any let, &c. of from or by the sd (V) and M his wife their hrs or ass or any or either of them And that the same preses now are and for ever hraft shall remain and be free and clear and freely and clearly acquitted exonerated and discharged or orwise by the sd (V) and M his wife their hrs, &c. well and sufficiently saved, &c. of from, &c. all and all manner of former or or. gifts, &c. and incumbrances made, &c. by the sd (V) and M his wife, &c. And furr that they the sd (V) and M his wife and their respive hrs, &c. and all and evy pen and psns having, &c. any este, &c. of into or out of, &c. shall, &c. upon the reasone request and at the costs and chas in the law of the sd (P) his hrs and ass make, &c. And moreover that for the more perfectly extinguishing the title to dower of her the sd M out of the sd messes and preses hby bargained

and sold the sd (V) doth hby furr covt, &c. with the sd (P) that the sd M (she hby consenting) shall and will duly acknge these prests as her deed in the manner and form of the statute in that behalf made and provided *In Witness, &c.*

Deed of

ENFRANCHISEMENTS.

§ 1. Enfranchisement, is the changing of the tenure from base to free, and it is effected by the lord's conveying to the tenant, the freehold of the particular and specific premises which were held by copy, or by releasing to the tenant his seignorial rights; 1 Watk. Cop. 362. This may be by feoffment or any other common-law conveyance, but is most usually done by bargain and sale enrolled; but it must be here observed, that the conveyance by way of enfranchisement, should always be taken in the name of the copyholder and not to a trustee, for in this latter case the inheritance only becomes severed from the manor, but the copyhold interest remains; *Murrel v. Smith*. 4 Co. 24, b. *Beale v. Langley*, 2 Leon. 208. *Dancer v. Eust*. 1 Vern. 392.

2. Immediately on the lands being enfranchised in fee, they become severed from the manor; and the tenure being extinct as to the enfranchising lord, he cannot reserve to himself any services on such enfranchisement; *Bradshaw v. Lawson*, 4 T. R. 445. 1 Watk. Cop. 449, Cov. Edit. So all customs which attach to the copyhold tenure will cease, *ibid*. And all rights and privileges annexed to the copyholder's estate, as common of pasture or estover in right of his copyhold, become extinct, unless they be expressly reserved to the copyholder in the deed of enfranchisement; *Barwick v. Matthews*, 5 Taunt. 565. S. C. 1 Marsh. 50. 1 Watk. 452. But in *Styant v. Staker*, where the lord enfranchised a copyhold with all common thereunto belonging, the court held that, though the common was in this case extinct in law, yet that it subsisted in equity; and it was decreed that the plaintiff should have the same right of common as belonged to the copyholder; 2 Vern. 250. If a copyholder hath had immemorially a right of way over another's copyhold, and he purchaseth the inheritance of his own copyhold, yet the way remains, as it is the tenure only that is altered by the enfranchisement. 7 Roll. Abr. 933; Lex Cust. 233; Hard. 151.

An Enfranchisement of Copyhold Premises by way of Bargain and Sale.

This Indre made, &c. Betw (lord) of, &c. lord of the manor of in the co. of of the one pt and (copyholder) of, &c. one of the copyhold or customary tenants of the sd manor of the or. pt Whas the sd (I.) is seised to him and his hrs of an estate of inance in fee-simple of and in the manor afd And the sd (C) is seised or possessed of the sd messe, &c. hinaft parlarly described of an este of inance in fee-simple by copy of court-roll at the will of the lord according to the custom of the sd manor the sd copyhd

Recital of seisin by lord of the manor, and copyholder.

Deed of messe, &c. being within and p^{cl} of the sd manor *And*
Contract *whas* the sd (L) hath agrd with the sd (C) for the
for enfran- conson h^{nafter} mentd to enfranchise the sd messe, &c.
chisement. *Now therefore this Indre witnesseth* That in conson of
Testatum. the sum of £ — of, &c. the rect, &c. He the sd
 (L) Hath granted bargained sold aliened released and
 enfranchised and by, &c. Doth grant, &c. unto the sd
 (C) *All that* the sd messe, &c. togr with all ways
 waters watercourses commons, &c. (a) and the revn,
 &c. and all the este, &c. (a) of him the sd (L) of in or to
 the sd messe, &c. (see *Release*) *To Have and to Hold* the
 sd messe, &c. hby granted bargd and sold to him the
 sd (C) his hrs and ass *to the only proper use and behoof*
 of him the sd (C) his hrs and ass for ever freely clearly
 and absolutely enfranchised (a) acquitted and discharged
 by these prests from henceforth for ever of and from all
 and all manner of yrly and or. paymts rents quitrents chief
 rents customary or copyhd rents fines heriots fealty suit
 of court and all or. usual or customary or copyhd paymts
 duties services or customs wh^{at}sr which by and accord-
 ing to the custom of the sd manor of the messe, &c.
 and prestes hby granted bargd and sold or any of them is
 or are or hath or have been or ought orwise to be subject
 or liable to or charged with or which orwise ought to be
 pd done or performed for or in respect of the same messe,
 &c. or any of them or any pt thof as copyhd holden
 of or as p^{cl} of the sd manor *Provided always* and it is
 the true intent and meaning of these prests and of the
 pties hereunto that these prests or any clause matter or
 thing herein contd shall not extend or be deemed taken
 or construed to extend to enfranchise or make free the
 remaining or any or. pts of the sevl copyhd lands or
 tents (not hⁱⁿbefe granted) and now or late of him the
 sd E F or to acquit or discharge the sd remaining or
 or. pts from any paymts rents quitrents fines heriots
 fealty suit of court or any or. paymts duties customs or
 services which by or according to the custom of the afd
 manor the sd respive copyhd lds or tents or any of
 them have at any time heretofore been subject or liable
 to or charged with or which have been or ought to
 have been pd done or performed for or in respect of
 the sd respive lds or as copyhd or p^{cl} of the sd manor
And this Indre furr witnesseth That it being the inten-
 tion of the pties hereto that the sd (C) and his hrs shall
 for ever use and enjoy the same commonage (a) in and
 upon all and evy the wastes commons and common-
 able lds of or belonging to the sd (L) as lord of the sd
 manor of C notwithstanding the enfranchisement of the sd

Other lands
 belonging
 to the same
 tenant not
 to be en-
 franchised.

Further
 testatum,

(a) See Pref. § 2.

messe, &c. as he the sd (C) heretofore hath been and now is entitled by reason of the sd copyhd preses intended to be hby enfranchised And to the end and intent that such commonage may be the more effectually secured and conveyed to the sd (C) He the sd (L) Doth for the consons afd and in performance of the sd agrt grant and confirm unto him the sd (C) and his hrs All commonage and right and title of common of evy nature and kind whatsr of in upon to or out of all and evy the wastes commons and commonable lds of or belonging to him the sd (L) as lord of the sd manor of as afd whatsr and wheresoever and in as large and comprehensive a manner to all intents and purps as he the sd (C) could have exercised claimed and demanded or in any wise have been entitled to them as a copyhd tenant owner or occupier of the sd messe as if these prests had not been made And the sd (L) for himself, &c. (Covts for title, see *Releases*)

Deed of

Grant and confirmation of commonage to copyholder.

EXCHANGES.

§ 1. A deed of exchange is the mutual grant of equal interests, Shep. Touch. 289. It is not necessary that the estates exchanged should be of equal value, but they should be equal in quantity or tenure, as fee simple for fee simple, term of years for term of years, &c. Co. Litt. 50, 51. The word 'Exchange' is so individually requisite and appropriated by law in this case, that it cannot be supplied by any other word, *ibid*.

Definition.

2. Whatever may be the number of persons named in the introductory part of the deed, an exchange can properly be between two distinct contracting parties only, for want of the mutuality and reciprocity on which its operation so chiefly depends, Sheph. Touch. Prest. Ed. 295, *Case of Eton College*, 3 Wils. 485.

The word 'exchange' necessary.

Exchange between two only.

3. No livery of seisin, even in exchange of freeholds, is necessary at common law, for each party stands in the place of the other; but entry must be made on both sides, for by the death of either party, before entry, the exchange is void, Bro. Abr. Exchange, pl. 6.

No livery of seisin but entry necessary.

4. If the exchange be of lands or tenements of any estate of inheritance or freehold, it has a condition and a warranty *tacitè* implied in the word 'exchange'; a condition to give re-entry upon the lands given in exchange, in case of eviction from all or part of the other lands, and a warranty to enable the party evicted to roush and recover over in value so much of his own land as is equal to what has been recovered from him, 4 Co. 121. Touch. 290.

Condition and warranty in an exchange.

5. Although by the omission of the word 'exchange' the deed cannot operate as an exchange, yet it may take effect to other purposes; as if one by deed doth give an acre to another, and that other doth give his acre to him without any word of exchange; in this case, although the acres will not pass by way of exchange, yet they will pass by way of grant. Such deeds of mutual conveyance are more frequent in modern practice than deeds of exchange; Shep.

Mutual conveyances.

Deed of Touch. 297. An exchange is sometimes effected by one deed comprising reciprocal conveyances from each party to the other of the lands respectively given and taken in exchange, and sometimes by two separate and distinct deeds. A covenant for quiet enjoyment may be added, but the deed is good enough without such covenant, Shep. Prec. 55.

6. An exchange might formerly be made by parol, but now, by force of the Statute of Frauds, a writing is necessary.

A Deed of Exchange in respect of Freeholds.

Stamp.

Obs. When any sum not exceeding £500 is paid for equality of exchange, the deed requires a stamp of 1*l.* 1*s.* only; but if above that sum, then the deed is subject to an *ad valorem* stamp, as in other conveyances, together with a further progressive duty of 1*l.* 5*s.* for every entire quantity of 1080 words above the first 1080, or, if liable to a higher duty, then the further progressive duty of 1*l.* Duplicates are charged with the same duties.

This Indre made, &c. Betn A B of, &c. of the one
 Recitals of pt and C D of, &c. of the other pt *Whas* (recite seisin
 of A B and C D each of a parcel of land) *And whas* the
 Agreement sd A B and C D have mutually agreed to exchange their
 to exchange respive pcls of land and to make such reciprocal conveyances as are hnafttr expssd hut in as much as the
 piece or pcl of ld belonging to the sd A B exceeds in
 value (a) upon an accurate valuation the piece or pcl of
 ld so agrd to be conveyed in exchange for the same by
 the sum of £ — the sd C D hath consented to pay that
 sum unto the sd A B by way of equality of exchange
 Testatum, Now, &c. in conson of the piece or pcl of ld hnafttr
 mentd to be granted and conveyed in exchange by the
 from grant sd C D to the sd A B and also in conson of the sum of
 by A B to £ — by the sd C D to the sd A B in, &c. pd the rect,
 C D. &c. He the sd A B hath granted bargained sold aliened
 and released and by, &c. *Doth, &c. All that, &c.* And all
 the este, &c. which sd piece or pcl of ld is now in the
 Habendum, actual (b) posson of the sd C D *To Have and to Hold* the
 sd piece, &c. and all and singr or. the preses hby granted
 or released or intended so to be with all their appts
 unto the sd C D his hrs and assigns *to the only proper*
use and behoof of the sd C D his hrs and ass for ever in
 lieu of and in exchange (c) for the sd piece or pcl of ld
 to be conveyed and assured unto the sd A B as hnafttr-
 mentd (Here may be inserted covts for title and quiet
 Power of enjoyment, &c. see Release) *Provided always* (d) and it
 re-entry. is hby decld and agrd by and betn the sd pties hereto

(a) See Pref. § 1. Also Obs. as to Stamp.

(b) As to livery of seisin, see § 3.

(c) As to this word, see § 1.

(d) As to the right implied by law, see § 4.

that the true intent and meaning of them and of these prests is that if the sd C D his hrs or ass or any psn or psns lfully or equitably claiming by from under or in trust for him them or any of them shall at any time hnaftir (witht his or their wilful neglect or deflt) be evicted or turned out of the possession of the sd piece or pcl of ld and preses hby granted and released or intended so to be so that the sd C D his hrs or ass or any psn, &c. shall or may be prevented or hindered from holding or enjoying the same according to the true intent and meaning of these prests Then and in such case these prests and every matter and thing herein contd shall cease determine and be utterly void and it shall and may be lful for the sd C D his hrs and ass, &c. to enter into and upon the sd piece and pcl of ld to be granted and conveyed to the sd A B as hnaftir is mentd and the same to have again repossess and enjoy as in his and their former este anything hnbeftre contd to the contrary thof in anywise notwithstanding *And this Indre furr Witnesseth* That in pursuance and furr exon of the afl agrt and for completing and perfecting the sd intended exchange and as well for and in conson of the piece or pcl of ld hnbeftre conveyed and assured by the sd A B to the sd C D and his hrs or mentd or intended so to be as also in conson of 5s. &c. He the sd C D Hath granted, &c. (*the same as before*)

*Deed of
Mutual
Convey-
ances.*

Further
Testatum.

A Deed of Mutual Conveyance between two Parties.

Obs. The word 'exchange' being omitted in deeds of this description, they are not subject to the same rules of law, nor have they the same force as a regular deed of exchange, see Pref. § 5.

This Indre made, &c. Whas divers suits controversies and differences have arisen between the pties to these prests touching and concerning the several lds rights of common rents boundaries of manors and or. things relating thereto *And whas* for the composing and ending all such differences they the sd parties have agrd to make such mutual conveyances as are hnaftir-mentd *Now, &c. in pursuance of, &c. and in conson of the grant and conveyance hnaftir made or intended to be made by the sd C D and also in conson of 5s. of, &c. He the sd A B Hath granted remised released and for ever quitted claim and by, &c. Doth* fully clearly and absolutely grant, &c. unto the sd C D (in his full and peaceable possession now being, &c. see *Release*) and to his hrs and ass for ever all such liberty and right of common and all such or. este right title int claim or demand whatsr either at law or in equity as be the sd A B or any of his tenant or tenants have or

Recital of
differences,
&c.

Testatum.

*Deed of
Mutual
Convey-
ances.*

hath or ever had or claimed to have of in to or out of *All* that large piece or pcl of pasture ground commonly called in the manor of in the co of or of in to or out of any pt or pcl thof And also all the este right title and int of him the sd A B of in to or out of all chief rents heriots and services issuing out of or paye for any messes lds tents and hereditis which at the time of making the sd agt were held possessed and enjoyed by the sd A B or any of his tenant or tenants for from or under him the sd A B within the sevl parishes or villas of so that neither he the sd A B nor his hrs or ass or any of his or their tenant or tenants shall or may at any time hereafter have or claim any liberty or right of common or or. este or title of in to or out of the sd pasture or any chief rents, &c. but thof and therefrom and of and from all actions suits claims challenges and demands for or out acct of such liberty or right of common chief rents heriots and services and evy and any pt thof shall be from henceforth for ever debarred and excluded by these prests And the sd A B doth hby for himself, &c. (Covt for quiet enjoyment) *And this Indre furr Witnesseth* That for and in conson of the sum of £ — of, &c. to the sd C D, &c. by the sd A B, &c. the rect, &c. He the sd C D Hath granted bargained sold aliened released and confirmed and by, &c. Doth grant, &c. unto the sd A B, &c. *All those* two pieces or pcls of grd, &c. with their appts And also all ways paths passages, &c. (see *Release*) And also all the este right title and int of him the sd C D of in to or out of the sd chief rents heriots and services issuing out of or paye for any messes lands tents and hereditis within the sd sevl parishes or villas of every and any of them (except and always reserved out of these prests unto the sd C D his hrs and ass all such chief rents heriots and services as are issuing, &c. within the same parishes, &c. which at the time of making the same agreement were in the tenure posson or occupation of him the sd C D as afid all which last mentd prestes except as before excepted are now in the actual posson, &c.) *To Have and to Hold*, &c. the sd lds tents rents heriots services and all and singr or. the prestes hby granted and reld with their and every of their appts (except as before excepted) unto the sd A B his hrs and ass for ever to and for the proper use and behoof of him the sd A B his hrs and ass for ever and to and for no or. use intent or purpose whater And the sd C D doth hby for himself, &c. (Covt for quiet enjoyment) And for the consons afid and in furr pursuance of the sd agt it is hby decid and agrd upon and the sd A B and C D for themselves severally and respaly and for their sevl and respive hrs, &c. covt, &c.

*Further
Testatur.*

in manner following that is to say That the sevl limits metes and boundaries betn the manor of in the co of whof the sd A B is the present lord or proprietor and the manor or lordship of in the same co whof the sd C D is the present lord or proprietor and betn the sevl lds and estes of them the sd pties near or adjoining to the same manors or either of them shall for ever be remain and continue fixed settled determined betn the sd pties and their respive hrs and ass in such sort manner and form by such limits metes and bounds as the homage or jury directed to view the same by a ct baron held for the sd manor of on or about the day of which was in the yr of the reign of, &c. did at the next ct baron held for the same manor on or about the day of in the same yr return and present to the sd ct that the same manors were limited abutted and bounded which sd limits metes and bounds formed and presented by the sd jury are parlarly set forth and described in the ct rolls of the sd manor entered there for that purpe on the sd day of in the, &c. In Witness, &c.

*Deed of
Mutual
Convey-
ances.*

*Metes, &c.
to remain as
fixed by the
homage.*

*Exchange of a Parsonage House and Glebe Lands for
another House and Lands.*

Oba. By the 17 G. III. c. 53, amended by 55 G. III. c. 147; 56 *Ib.* c. 3; 2 & 3 G. IV. c. 72; and 6 *Ib.* c. 8, parsons, vicars, and incumbents, are authorized, with the consent of the bishop, to convey the parsonage or glebe lands and appurtenances, in exchange for any other house or lands; and by the last Act, the power of exchange is extended to any number of statute acres, and also to the taking of copyholds in exchange for freeholds. The deed of exchange must be registered in the registry office.

*This Indre made, &c. Betn A B of, &c. of the one pt and C D of, &c. of the or. pt Witnesseth That for and in conson of the messe or tent hnaft mentd to be granted and conveyed in exchange by the sd C D to the sd A B and also for and in conson of the sum of 5*l.*, &c. He the sd A B Hath granted, &c. and by, &c. Doth (in his actual posson, &c.) All, &c. And all houses, &c. and appts whatsr to the sd messe tent or parsonage-house fields or closes of kl hby granted, &c. And the revn, &c. And all the este, &c. of him the sd A B of in or out of the same messe, &c. To Have and to Hold the sd messe, &c. unto the sd C D and his ass in lieu and exchange for the sd messe, &c. hnaft parlarly mentd and described to be conveyed to the sd A B And this indre also witnesseth That for and in conson of the sd messe, &c. so granted and conveyed unto the sd*

Testatum.

*Further
testatum.*

EXCHANGES.

Lease-holds. A B and in conson, &c. He the sd C D (the same as before)

Exchange of one Parcel of Land for another, for a Term of Years, if certain Lives shall last so long.

Grant by A B. This Indre made, &c. Betn A B of, &c. of the one pt and C D of, &c. of the or. pt *Witnesseth* That the sd A B *Hath* given and granted and by, &c. *Doth* give, &c. unto the sd C D *All that* pce or pcl of arable land lying, &c. bounded, &c. containing one acre, &c. *To Have and to Hold* the sd pce or pcl of ld above-mentd with the appts unto the sd C D his exs ads and ass for and during the term of yrs if he the sd A B and A his wife and R their son or any or either of them shall happen so long to live in exchange for one acre of ld lying and being pt of acres of ld late in the occupation of, &c. extending itself, &c. For which consideration the sd C D *Hath* given and granted and by, &c. *Doth* give, &c. unto the sd A B the sd one acre last mentd with the appts *To Have*, &c. the sd, &c. unto the sd A B for and during the term of yrs next and immediately ensuing and fully to be complete and ended if the sd A B and A his wife and R their son shall happen so long to live in exchange of and for the sd one acre of ld first above-mentd *And* the sd A B for himself his exs and ads doth covt, &c. with and to the sd C D that he the sd C D his exs and ads shall and may from time to time and at all times hraftr during the sd term hby granted peaceably and quietly have hold occupy possess and enjoy the sd one acre of ld first-mentd witht the let trouble hindrance molestation interruption or denial of him the sd A B his exs ads or ass or any of them or any or. psn or psns whater claiming by from or under him them or any of them *And* the sd C D for himself his, &c. doth covt, &c. with the sd A B his exs, &c. that he, &c. shall and may, &c. peaceably, &c. have, &c. the sd one acre last mentd witht the let, &c. of him the sd C D his exs, &c. or any of them or any or. psn or psns whomsr claiming by from or under him them or any of them *In Witness*, &c.

Grant by C D.

Covenant from A B.

FEOFFMENTS.

§ 1. A feoffment is the gift or grant of honours, castles, manors, messuages, lands, houses, or other coporeal hereditaments, to another, in fee simple. It is properly a conveyance in fee, and yet

it is improperly called a feoffment when an estate of freehold only doth pass; Co. Litt. 9. The most proper words of making this are "give, grant, and enfeoff;" Sheph. Touch. 203. *Deed of*

2. This mode of conveyance might formerly have been made by word, without any writing, but it was usually made by writing, and was called a charter of feoffment; Sheph. Touchst. 203. By the Statute of Frands, it must now always be in writing. No writing formerly necessary.

3. But the mere signing and sealing a deed of feoffment is not sufficient to pass an estate of freehold, unless it be accompanied with a formal delivery of the possession, called a livery of seisin, to be made by the feoffor to the feoffee, either in person, or by attorney, in the presence of witnesses; Co. Litt. 48, a.; Sheph. Touchst. 210. Livery of seisin necessary.

4. A feoffment is the oldest and most efficacious of all conveyances, and serves to clear all disseisins, intrusions, and other wrongful and defensible estates; Sheph. Touchst. 204; Watk. Pr. 164. Although now not much in use, yet it is in some cases to be preferred where the actual seisin of the land ought to be given, for which reason it is one usual mode of conveyance adopted by corporations. By the tenure of gavel-kind, infant heirs of the age of fifteen may convey their lands for money or other valuable consideration; but this can be effected by feoffment only, with livery of seisin; Rob. Gav. 193. Force of a feoffment.

5. A clause of warranty is usually inserted in a feoffment; but covenants for the title are preferred, as a warranty only binds the heirs having assets; but covenants bind executors and administrators as well as heirs, in respect to both real and personal assets. It was, however, sometimes deemed prudent to insert a clause of warranty, in addition to the covenants for title, as it might possibly bind a reversioner or remainder-man, where no assets descended, and be even a bar to a latent entail; Sheph. Prec. 25; Watk. Prin. 167; Gilb. Ten. 133. But now, by the 3 & 4 W. IV. c. 74, s. 14, warranty as a bar to an entail is abolished, and consequently this clause of warranty loses much of its former value. Clause of warranty.

6. When livery of seisin is made in person, a memorandum thereof is indorsed on the deed; but if by attorney, then a power of attorney is likewise inserted for that purpose in the deed (see *Livery of Seisin*.) Livery of seisin in person, or by attorney.

Deed of Feoffment from one Corporation to another. (General Precedent.)

Obs. 1. An *ad valorem* stamp, when the feoffment is made for the sale or mortgage of lands, as on a conveyance or mortgage, otherwise a deed stamp of 1*l.* 15*s.* Stamp.

2. As a feoffment operates by way of transmutation of possession, it is necessary that the feoffor should be in possession, and the feoffee out of it; consequently joint tenants cannot enfeoff one another, because they are both already in possession, but they may convey to one another by lease and release.

This Indre made, &c. Betn the very Rev. the Dean of the Cathedral Church of and the Chapter of the one pt and the Mayor and Commonalty and Citizens of (or ' the Govr Bailiffs and Commonalty of as the case may be) of the or. pt Whas A B of, &c. clk by his Recital of will.

Contract
for pur-
chase.
Testatum.

General
words.

Habendum.

Clause of
warranty.

last will and testament bearing, &c. Did give to the Dean and Chapter of the sd Cathedral Church All his close called in the town of for the purps in the sd will mentd And the sd will was proved in the Ct of, &c. on or about, &c. And *whas* the sd Mayor, &c. have agrd with the sd Dean and Chapter for the purchase of the same at the sum of £ — Now, &c. in conson of the sum of £ — of, &c. to the sd (*vendors*) well, &c. by the sd (*purchasers*) at or before the sealing and delivery of these prests to be held by the sd (*V*) for the intents and purps of the sd will of the sd A B the rect whereof and that the same is in full for the absolute purchase of the fee simple and inhance of the pce or pcl of ld hnaft described the sd (*V*) do hby acknge and of and from the same and evy pt thof do hby acquit rele and for ever discharge the sd (*P*) their successors and ass They the sd (*V*) Have given granted (a) enfeoffed and confirmed and by, &c. Do, &c. unto the sd (*P*) their successors and ass All that pce or pcl of ld or grd situate, &c. containing acres or thereabouts be the same more or less, &c. (here set out the boundaries) And which sd pce or pcl of ld or grd is pt of the sd close called And given by the sd A B to the sd (*V*) as afd And all the feedings woods meadows commons and commonage of pasture and turbury and or. commonable rights hedges ditches fences mounds ways paths waters water-courses liberties privileges easements profits commodities advantages and emoluments whatsr to the sd pce or pcl of ld or grd and heredit hby granted enfeoffed and confirmed or otherwise assured or intended so to be or any pt thof belonging or any wise appertaining And the revn and revns remr and remrs yrly and or. rents issues and prfts of the sd pce or pcl of ld or grd and heredit hby granted, &c. and every pt thof And all the este right title int use trust inhance property posson bent claim and demand whatsr both at law and in equity of them the sd (*V*) in to or out of the sd pce, &c. hby granted, &c. and evy pt thereof with the apts To Have and to Hold the sd pce or, &c. and heredit and all and singr or. the preses hnbeffe granted, &c. with the apts unto the sd (*P*) their successors and ass To the only proper use and behoof of the sd (*P*) their successors and ass for ever And the sd (*V*) do hby for themselves their successors and ass warrant (b) to the sd (*P*) their successors and ass the pce or pcl of ld or grd heredit and preses hby granted, &c. and evy pt thof agst them the

(a) See Pref. § 1.

(b) As to this clause, see Pref. § 5.

sd (V) and their successors and agst all or. pns
whomsr And (a) the sd (V) do by these prests make
nominate and constitute and appt and in their place and
stead put E F of, &c. to be their true and lful atty for
and in the name of them the sd (V) to enter into and
upon and to deliver full and peaceable possession and
seisin of the pce or pcl of ld or grd heredts and preses
hby granted, &c. or of some pt thof in the name of the
whole unto the sd (P) their successors and ass accord-
ing to the tenor form and effect of these prests And
the sd (P) do hby nominate, &c. G H their true, &c.
to enter into and upon and accept from the sd (V) or
the sd E F their certain atty full posson, &c. of the pce,
&c. hby granted, &c. or any pt thof in the name of the
whole according to the tenor, &c. In Witness, &c.

Power of
attorney.

To give
livery of
seisin,

and to re-
ceive livery
of seisin.

FINES AND RECOVERIES.

§ 1. By the 3 & 4 W. IV. c. 74, s. 2, all fines levied, and re-
coveries suffered, after the 31st December, 1833, are declared to be
void, and where parties were liable, under a covenant, to levy a
fine, or suffer a recovery, they are required by this Act (s. 3) to
execute any deed which shall serve to effect the purposes intended
to be effected by the fine or recovery.

Abolition
of fines and
recoveries.

2. As fines and recoveries were common assurances for passing
the lands of tenants in tail, the other assurances now in ordinary
use, as lease and release, bargain and sale, &c. are by this Act
(s. 40) under certain restrictions, substituted for them. A tenant
in tail must exercise his power of disposition by deed, that is, by
an actual conveyance *inter vivos*; he cannot do so by will, and a
disposition resting in contract only is not to be of any force. This
is conformable to an old rule of law and equity, that the issue in
tail was not bound by any contract of the ancestor; *Jenkins v.*
Keymes, 1 Lev. 239; *Ross v. Ross*, 1 Ch. Ca. 171; because he
claimed *per formam doni*; *Frederick v. Frederick*, 1 P. Wms. 720;
Fox v. Crane, 2 Vern. 306. As to copyholds, a tenant in tail may,
by s. 50, under the restrictions applied to lands of freehold tenure,
dispose of his estate, provided it be a legal estate, by surrender only;
but if it be an equitable estate, he may dispose of it by any of the
ordinary modes of conveying lands of freehold tenure. (As to
Copyholds, see further *Precedents*.)

Assurances
substituted
for fines
and recove-
ries.

As to copy-
holds.

3. Under the old law, tenants in tail had regularly no power
of disposing of their estate without the concurrence of other parties;
but now, by this Act (s. 15) a tenant in tail may dispose of his
estate as an estate in fee simple, where there is no person whose
concurrence is required by the Act, and in case there is such a per-
son, who by the Act is styled, 'the Protector of the Settlement,'
he may do the same with his concurrence. The effect of such a
disposition is analogous to that of a recovery, namely, to bar not

Power of
disposition
by tenant in
tail.

How re-
stricted by
protector of
the set-
tlement.

(a) As to this power of attorney, see Pref. § 6. Sometimes it
is thought prudent to appoint two attorneys, in case one should be
prevented by illness, or otherwise, from making livery of seisin.

only the issue in tail, but also all remainders and reversions expectant upon the estate tail. If, where there is such a protector, the tenant in tail parts with his estate without such consent, he cannot by the Act (s. 34) convey any greater estate than a base fee, that is, a fee determinable on failure of issue. The effect therefore of such a disposition answers to that of a fine with proclamations under the old law. But if a tenant in tail, with a reversion in fee to himself, levied a fine, the effect of that was, that the base fee became merged in the absolute fee, so as to let in all the incumbrances of the ancestor; *Crow v. Baldere*, 5 T. R. 109. To prevent this consequence, in the case of a tenant in tail disposing of his estate without the consent of the protector, the Act (s. 39) has declared that such base fee, when united with the fee simple, shall not merge, but be enlarged into a fee simple. The tenant in tail has likewise (by s. 43) the power of making a partial as well as a total alienation of his estate, subject to the restrictions before mentioned; and the effect of such a disposition, if it be a mortgage in fee, will be totally to bar the entail. Such would have been the effect of the recovery formerly, if it had not been restricted in equity to the purposes of the mortgage, leaving the resulting use to the mortgagor, subject to the entail; 1 Pow. on Mort. 675, (n. c). The power of alienation given to tenants in tail is (by s. 18) not to extend to such as are tenants in tail of lands given by the crown, which is in confirmation of the 34 and 35 Hen. VIII. c. 20; nor to tenants in tail after possibility of issue extinct, who, as well as tenants by the curtesy and others, were, by the 14 Eliz. c. 8, restricted from suffering a recovery without the consent of the remainder-man. Issue inheritable are (by s. 20) not at liberty to dispose of their expectancies, which differs from the old law, inasmuch as a fine levied by an heir in the lifetime of the ancestor would operate by way of estoppel, *Weste v. Lower*, Pollenz. 54. Fearn's Conting. Rem. 356.

Who protector of the settlement.

4. The protector of the settlement answers, for the most part, to the person who under the old law was called the tenant to the *præcipe* or writ for suffering a recovery, and will, generally speaking, be the owner of the estate for life; but the Act has in many respects modified or enlarged the qualifications of the protector. In respect to his estate, the owner of the first existing estate under a settlement prior to an estate tail determinable upon a life or lives, or for a greater estate, not being an estate for years, is (by s. 22) to be the protector; and where there is more than one such estate, each is (by s. 23) to be protector in respect of his share, and a married woman is (by s. 24) in respect of such estate to be protector in conjunction with her husband, unless it be settled to her separate use, in which case she is to be sole protector. An estate by the curtesy, or by way of resulting trust, (s. 22) and an estate confirmed or restored by a settlement, is (by s. 25) to be deemed a subsisting estate under such settlement; in all which there is only a slight deviation from the old law, but in other particulars it differs more materially. Possession of a competent estate is no longer a necessary qualification, as formerly, to make a good tenant to the *præcipe*; a protector who has parted with his estate will (by s. 22) still continue protector, and a settlor is empowered (by s. 32) to appoint any number of persons not exceeding three, being in *esse* and not aliens, to be protector, with a power of filling up vacancies so as to perpetuate the protectorship. In the case of lunatics or idiots who are competent to be protectors, the Lord Chancellor is empowered (by s. 33) to execute the office of protector for them. Trustees having the legal estate could formerly make a good tenant to the *præcipe*, but by this Act (s. 27) a bare trustee (unless, by s. 31 he

had been made a trustee before the passing of this Act) is disqualified from being a protector; so a woman in respect of her dower, an heir, executor, administrator, or assign, and (by s. 26) a lessee in respect of a lease under the settlement. In the event of any taker of the first estate being excluded by the provisions in the Act, the taker of the next prior estate will (by s. 28) be competent to be the protector.

5. The consent of the protector must (by s. 36) be absolutely free, without any fraud, device, or management, to influence or control him in giving his consent. Any agreement entered into with him to induce him to withhold his consent is declared to be void, and a court of equity is not at liberty to restrain the protector in the exercise of his power, nor to consider giving his consent as a breach of trust. The Act further declares (by s. 37) that the rule of equity which applies to dealings and transactions between the donee of a power and the objects in whose favour the power is exercised, is not to apply to the protector of the settlement and the tenant in tail. By the rule here referred to, any appointment made by an appointor, with a condition annexed for his own benefit and to the prejudice of the appointees, is declared void, *Pawlet v. Pawlet*, 1 Wils. 224. The consent of the protector may (by s. 42) be given by the same assurance by which the disposition is effected, or by a distinct deed. And if by a distinct deed, it will (by s. 43) be considered as an absolute and unqualified consent, unless there be any words limiting it to that particular assurance; and when the consent is once given it cannot (by s. 44) be revoked. When the consent of the Lord Chancellor is required, it is to be obtained (by s. 48) in a summary way, by motion or petition. The consent of a married woman is (by s. 45) to be given in the same manner as if she were a *feme sole*. Courts of equity are excluded (by s. 47) from giving effect to dispositions by tenants in tail, or consents by protectors, which would not be valid at law.

Protector's consent.

To be given by deed.

When absolute.

Not to be revoked.

By married woman as a *feme sole*.

6. The provisions of this Act, which give a tenant in tail the power of disposing of his estate, are applied (by s. 70, 71, 72) to money in the funds, or to money to arise from the sale of lands, which is to be invested in the purchase of lands to be settled. Formerly a tenant in tail could not in this case receive the money, but was obliged to purchase land in order to suffer a recovery. The 39 and 40 G. III. c. 46, and 7 G. IV. c. 45, empowered the Court of Chancery upon petition to order the payment of the money to the tenant in tail under certain limitations, but now by this Act, which repeals the former Acts, an assignment of the entailed money, subject to the consent of the protector, if there be any, and also to any other prior interests and charges, is to have the same effect as an assurance will have in the sale of land. By this means, with the consent of the protector, if there be no subsisting interests or charges, the person barring the entail will receive the money from the trustee discharged from the entail; but otherwise the trustee will continue to hold it in trust for the persons barring the entail and the persons entitled to such interests and charges (see *Precedent*.)

Disposition of entailed money.

7. As under the old law a married woman could not part with her estate except by levying a fine, in which the concurrence of her husband was necessary, the new Act (s. 77) declares every disposition by a married woman, without the concurrence of her husband, so as to release, surrender, or extinguish any estate, or to release or extinguish any power which may be vested in her in regard to any estate in land, to be void, except (by s. 91) in certain cases of lunacy, absence from the country, or otherwise, in which the Court of Common Pleas, or in some cases the Court of Chancery, is authorized to dispense with his concurrence. This latter clause

Disposition by married women.

Convey-
ance
where
there is no
Protector.

removes the doubts which formerly existed as to the authorizing of any fine levied by a wife without the consent of her husband. In one case, where the husband was abroad, the court allowed the fine to be acknowledged *de bene esse*, 2 Blackst. 1205; in some cases the court has refused to interfere, *Stead v. Isard*, 1 N. R. 512; *ex parte Abney*, 1 Taunt. 37; *ex parte George*, 8 Taunt. 590. As to the concurrence of the wife, the Act requires (by s. 79) that every deed to be executed by a married woman, except such as shall be executed by her as sole protector, shall be produced and acknowledged before a judge, (s. 80) or certain commissioner, (s. 81) as her act and deed, she being examined apart as to her free and voluntary consent. (As to the seeming variance between these provisions and those in the Dower Act, see *Dower*, and as to Bankrupts tenants in tail, see *Bankruptcy*.)

Enrolment.

8. Every assurance by a tenant in tail (except a lease for 21 years at rack-rent, or not less than five-sixths of a rack-rent) must (by s. 41) be enrolled, or in the case of copyholds (by s. 54) be entered on the court rolls within six months after its execution; and also every other deed to take effect under this Act must (by s. 46, 59, 69, 71, 72, 73, 74, 86,) be enrolled, entered, or filed. A bargain and sale, if enrolled under this Act, is to be as valid as if enrolled under the Statute of Enrolments; when the deed is enrolled within the prescribed time, it is to take effect in the same manner as if enrolment had not been required, except that it will be void against a purchaser for a valuable consideration under a subsequent deed which has been previously enrolled. (As to copyholds, see further *Precedents*.)

Conveyance by a Tenant in Tail in Possession where there is no Protector.

Obs. Any incumbrances, as a mortgage or lease created by a tenant in tail, were not defeated but confirmed by a recovery; and in accordance with this, the Act (s. 38) provides that any assurance by a tenant in tail is to have the effect of confirming all voidable estates against a purchaser, unless he be a purchaser without notice of such voidable estates. (As to variations where there is a protector, see next *Precedents*.)

Recital of
settlement.

This Indre made, &c. Betn (vndor) of, &c. eldest son and heir of I F late of, &c. decd of the one pt and (purchaser) of, &c. of the or. pt (a) Whas by indres of lease and rele bearing date respby the and days of the rele being made betn the sd I F of the first pt M F (then M B spinster) late widow and relict of the sd I F of the second pt (trustees) of, &c. of the third and fourth pts being the settlement made by the sd I F in contemplation of the marriage then intended and shortly after solemnized betn him and the sd M B the manors messes or tents lds and hereds hnaft described were duly conveyed and assured from and after the solemnization of the sd marre to the use of the sd F B and his ass during the term of his natural life And from and immly after the determination of that este by

(a) Where there is a dower trustee, make him a party of the third pt.

forfeiture or orwise during his lifetime to the use of the sd (T) their hrs and ass during the life of the sd F B to preserve contingent remrs and from and after the dece of the sd F B to the use and intent that the sd M B if she shd survive the sd F B and her ass might rece and take during the remr of her life the yrly rent-charge or sum of £ — out of the rents and prfts of the sd hereds as and for her jointure or in bar of dower with the usual powers of distress and entry for enforcing payment of the same and subject thereto with remr to the use of the sd (trustees of term) their exs ads and ass for the term of 500 yrs upon the trusts therein decid for securing the paymt of the sd yrly sum of £ — and from and after the expiration or or. sooner determination of the sd term and in the mean time subject thereto to the use of the first and evy or. son of the sd then intended marre in remr one after another sevly and successively according to their seniority in tail male with divers remrs over *And whas* the sd F B died on or about the day of leaving the sd (V) his eldest son him surviving who thereupon became entitled to the sd hereds for an este of inhance in tail male subject to the sd annual rent-charge or sum of £ — *And whas* the sd M B departed this life on or about the day of now last past and all arrears of the sd yrly sum of £ — have been paid up to the day of her dece *And whas* the sd (V) hath contracted with the sd (P) for the absolute sale to him of the fee simple of inhance of the manors messes kds or tents and hereds hnafr described situate and lying in being part of the manors comprised in the sd in pt recited indre of settlement free from all incunbs at or for the price or sum of £ — (a) *Now this Indre Witnesseth* That in pursuance of the sd contract and in conson of the sum of £ — to the sd (V) in hand well and truly pd by the sd (P) at or before the sealing and delivery of these prests the rect of which sd sum of £ — And that the same is in full for the absolute purchase of the sd manors messes, &c. and the fee simple of inhance thereof free from all incunbs (b) the sd (V) doth hby acknge and of and from the same doth acquit rele and for ever discharge the sd (P) his hrs exs ads and ass and evy of them He the sd (V) by force of the statute for the Abolition of Fines and Recoveries *Hath* granted bargained sold aliened and reld and by these prests *Doth* grant, &c. unto the sd (P) (in his actual posson now

*Convey-
ance
where
there is no
Protector.*

*Death of
settlor.*

*Death of
widow.*

Testatum.

(a) If the widow be still living, then, omitting the former recital, say, 'save and except as hnafr excepted.'

(b) If the widow be living, say, ('save and except as hnafr excepted.'

Conveyance where there is no Protector. being by virtue of a bargain and sale to him thereof made by the sd (*V*) in conson of 5s. by indenture bearing date the day next before the day of the date of these prests for one whole yr commencing from the day next before the day of the date of the same indre and by force of the statute made for transferring uses into posson) and his hrs *All those manors, &c. (parcels)* Togr with all houses, &c. (general words, see *Releases*) And the revn, &c. And all the este, &c. And all deeds, &c. (see *Release*) *To Have and to Hold* the sd manors, &c. and all and singr or. the hereds and preses hby granted or reld or intended so to be with their rights members and appts unto and to the use of the sd (*P*) his hrs (*a*) and ass for ever freed and discharged from all estates tail and all remrs and revns expectant and depending thereon (*b*) *And* the sd (*V*) doth hby for himself his hrs exs and ads covt promise and agree with and to the sd (*P*) his hrs exs ads and ass in manner following that is to say That for and notwithstanding any act, &c. (see *Release*) he the sd (*V*) is lfully seised of, &c. for a perfect, &c. este of inhance in fee tail male witht any manner of condon, &c. *And* that for and notwithstanding, &c. he the sd (*V*) hath full power and lful authty to grant bargain and rele, &c. And that it shall and may be lful for the sd (*P*) his hrs and ass quietly and peaceably to hold, &c. (quiet enjoyment, see *Release*) *And* that free and clear, &c. *And furr* that he the sd (*V*) and all and evy or. psn, &c. shall and will, &c. make do, &c. all and singr such furr and or. acts, &c. (for further assurance, see *Release*).

Habendum.

Covenants for title.

Lawfully seised.

Hath good right to convey.

Quiet enjoyment.

In Witness, &c.

Conveyance by a Tenant in Tail in Possession to a Trustee in order to revest the Fee in himself.

Objects of the precedent. Obs. 1. As a tenant in tail cannot dispose of his estate except by deed, (see Pref. § 2) this precedent is framed with the view of enabling him to make disposition of it by will. For variations, where it is with consent of protector, see *next Precedent*.

Enrolment. 2. As to the enrolment, see Pref. § 8.

Stamp. 3. A bargain and sale enrolled, in a case of this kind, would, by the 55 G. III. c. 184, require a 5l. stamp; but any other mode of assurance requires only a common deed stamp, and the progressive duty.

This Indre made, &c. Betn (tenant in tail) of, &c. of the one pt and (trustee) of, &c. of the or. pt Whas, &c.

(*a*) If there be limitations to uses say, 'hrs appointees and ass.'
 (*b*) If there be a widow living, say, 'subject nevass to the sd jointure rent-charge or annual sum of £—' And if any limitations to uses, or any declaration to bar dower, be necessary, see *Dower*.

(recite settlement, as in last precedent) *And whas, &c.* (recite death of father of the tenant in tail, &c.) *Now this Indre Witnesseth* That for the purpe of enlarging the este tail in possession of him the sd (T) into an absolute fee simple and for barring and extinguishing all estes tail and all remrs and revns expectant and dependant thereon and in conson of 5s. by the sd (trustee) to the sd (T) in hand pd the rect, &c. whereof is hby acknged He the sd (T) Hath granted, &c. and by these, &c. Doth grant, &c. unto the sd (trustee) (in his actual posson, &c.) and his hrs *All that messe, &c. with, &c.* Togr with, &c. (see *Release*) And the revn, &c. And all the este, &c. of him the sd (T) *To Have and to Hold* the sd messe, &c. and all, &c. the preses, &c. unto the sd (trustee) his hrs and ass nevs to such uses and upon and for such trusts and purps and in such manner as the sd (T) shall by any deed or writing or by his last will and testmt direct and appt and in deft of apptment to the use of the sd (T) his hrs and ass for ever (here add, if necessary, a declaration to bar dower) *In Wilness, &c.*

Convey-
ance with
Protec-
tor's Con-
sent.

Testatum.

Conveyance by a Tenant in Tail to a Purchaser with the Consent of the Protector.

Obs. As to the enrolment of this deed, see Pref. § 8. For variations where the protector is a conveying as well as a consenting party, see *Resettlement of Estates Tail*.

This Indre made, &c. Betn (protector) of, &c. of the first pt (tenant in tail) of, &c. of the second pt and (purchaser) of, &c. of the third pt (a) Whas the sd (T) under and by virtue of the last will and testmt of (testator) late of, &c. decd bearing date, &c. and duly exted for passing real estates of inhance is seised of an estate tail in possession of the messes or tents lds and hereds therein parlarly described *And whas* the sd (T) hath contracted with the sd (P) for the absolute sale to him of the inhance in fee simple of the messe or tent lds and hereds hnaft described at or for the price or sum of £ — and the sd (protector) at the request of the sd (T) hath agreed to concur in these prests in manner hereinafter mentd *Now this Indre Witnesseth* That in order to enlarge the estate tail of the sd (T) into an absolute estate in fee simple and to bar and extinguish all estates tail and all remrs and revns expectant or depending thereon of and in the messe, &c. hnaft granted and reld or intended so to be and in conson of the sum

Recital of
seisin.

Contract
for sale.

Testatum.

(a) If there be a dower trustee for the purchaser, make him a party of the fourth part, see *Dower*.

Conveyance without Protector's Consent. of £ — by the sd (P) to the sd (T) in hand, &c. pd at, &c. the rect, &c. He the sd (T) with the consent of the sd (protector) testified by his being a party to and exting these presents and by force of, &c. (see *first Precedent*) Hath granted bargained aliened and reld and by, &c. Doth grant, &c. unto the sd (P) (in his actual posson, &c.) and his hrs *All that messe, &c. Togr with, &c. (see Release)* And the revn, &c. And all the este, &c. *To Have and to Hold* the sd messe, &c. and all singr or. the preses hby granted, &c. unto the sd (P) his hrs and ass for ever absolutely freed and discharged from the este tail of the sd (T) and all or. estes tail in remr and revn expectant or dependant thereupon (a) And the sd (T) doth hby for himself, &c. (Covenants for title, see *Release*) *In Wisness, &c.*

Conveyance by a Tenant in Tail without the Consent of the Protector.

Obs. A tenant in tail in remainder, may part with his estate to the extent of his power, as well as a tenant in tail in possession, provided he be not an expectant heir; see Pref. § 2. As to enrolment, see Pref. § 8.

Recitals. *This Indre made, &c. Betn (vender) of, &c. of the one pt and (purchaser) of, &c. of the other pt (b) Whas* (recite the deed or will creating the entail, see *former precedents*) *And whas* (recite death of settlor or testator, as the case may be) *And whas* the sd (V) hath issue five children namely (here state the ages of the several children) *And whas* (recite contract for purchase) *And whas* in and by the sd in pt recited indre of settlement (or 'will') I B of, &c. was nominated protector *And whas* the sd (V) not being able to procure the consent of the sd I B the sd (P) hath agreed to complete his contract for purchase upon the sd (V) entering into the covenant hnaft mentd *Now this Indre witnesseth* That in order to defeat as far as he lfully can or may the este tail of him the sd (V) of and in the sd

Testatum.

(a) If the protector be the tenant for life, add, if necessary, 'subject and witht prejudice to the life estate of the sd (protector),' or if the protector and the tenant for life join in conveying to a trustee for ulterior purposes, then say, 'subject nevss to such uses for such intents and purps and in such manner as the sd (protector and tenant) by any deed or deeds to be exted by them in the presence of and attested by two or more credible witnesses shall jily appt and in deft of appointment to such uses for such estates witht under and subject to such powers provos uses and declons as before the exon of these prests were subsisting and capable of taking effect concerning the same.'

(b) If there be a dower trustee, make him a party of the third part. See *Dower*.

messe, &c. hnaft granted, &c. or intended so to be and in conson of the sum of £ — by the sd (P) at, &c. pd to the sd (V) the rect, &c. He the sd (V) Hath granted, &c. and by these prests *Doth* grant, &c. unto the sd (P) (in his actual posson, &c.) and his hrs *All that*, &c. (*parcels*) with all their rights, &c. *Togr* with, &c. (*see Release*) And the revn, &c. and all the este, &c. *To Have and to Hold* the sd messe, &c. and all and singr or. the preses hby granted, &c. unto and to the use of the sd (P) his hrs and ass (a) for ever subject nevss to the estes rights and ints to take effect after the determination or in defeasance of the este tail of him the sd (V) (b) And the sd (V) doth hby for himself his hrs exs and ads covt, &c. with, &c. the sd (P) in manner following that is to say That for, &c. he the sd (V) is lfully, &c. seised of, &c. the sd messe, &c. for a good sure, &c. este of inhance in tail male in posson (or 'in remr' as the case may be) witht, &c. (*see Release*) And also for, &c. he now hath in himself, &c. (good right to convey subject to the estes rights and ints, &c.) And also that the sd same messe, &c. shall be peaceably, &c. held, &c. (quiet enjoyment) And that free, &c. and freely and clearly, &c. discharged, &c. and kept harmless and indemnified of from, &c. all and all manner of former or or. gifts, &c. and incombis except the rights estes and ints subject to which the sd messe, &c. and preses are hby granted or reld or intended so to be And also that the sd (V) and his hrs and all and evy or. pan or psns claiming, &c. (except pens claiming in respect of the estes rights and ints subject to which the sd messes, &c. and preses are hby granted reld or orwise assured or intended so to be as afd) shall and will at all times make do, &c. all such furr and or. acts, &c. And more-over that the sd (V) or his issue in tail shall and will when enabled or competent so to do at the request of the sd (P) his hrs or ass but at the costs and chas of the sd (V) his exs and ads do and exte such deeds and assurances as shall be necessary for defeating all such estes rights and ints to take effect in determination and defeasance of the este tail of the sd (V) of and in the sd messe, &c. and preses hby granted and for conveying and assuring the absolute fee simple of and in the same messe and preses and evy pt thof unto the sd (P) his hrs and ass for ever *In Witness*, &c.

*Convey-
ance
without
Protec-
tor's Con-
sent.*

Habendum.

*Covenants
from
vendor.*

*Covenant
to perfect
title.*

(a) For variations, where there are limitations, or a simple declaration to bar dower, see *Dower*.

(b) If the reversion in fee be in the tenant in tail himself, then say, 'other than the ultimate reversion so limited to him by the sd in pt recited indre' (or 'will')

*Settle-
ment by
Tenant in
Tail.*

Resettlement of Estates-tail by Tenant for Life and Tenant in Tail in Remainder on the Marriage of the latter, in which the Wife of the Tenant for Life joins.

Obs. Where the case will admit of it, it may be convenient for the tenant for life and the tenant in tail in remainder, to execute a separate deed, in order to disentail the estates, so as to obviate the necessity of enrolling so large a deed as this.

Recital of
will in
favour of
intended
wife.

This Indre made, &c. Betn (father of the intended husband and tenant for life) and E his wife and (intended husband and tenant in tail in remainder) eldest son and heir of the sd (father) of the first pt (mother of intended wife) widow and relict and sole executrix of the last will and testmt of (testator) late of, &c. decd and (intended wife) daughter of the sd (mother and testator) of the second pt (trustees for preserving contingent remainders) of, &c. of the third pt and (trustees of term) of, &c. of the fourth pt *Whas the sd (testator) decd duly made and published his last will and testmt bearing date the day of which was in the yr, &c. 18 and after giving divers pecuniary legacies therein mentd gave and bequeathed all the rest and residue of his este and effects whatsr unto (trustees) their exs ads and ass to be placed out in their names on govmt or or. good secties* *In Trust to pay out of the annual int and produce thof unto the sd (mother) the sum of £ — to be pd to her by quarterly paymts during her natural life and subject thereto to allow and pay for the maintenance and education of his only daur the sd (I W) the yrlly sum of £ — until she should attain her age of 21 yrs or be married which should first happen and as to the remaining int and produce of the sd residue of his este he thby directed that his sd (T) should place out the same on government or or. secties from time to time when the same should amount to a proper sum for that purpe and become pt of the residue of his este And as to all the residue of his sd este he thby directed that the sd (T) should stand possessed of or interested in the same* *In Trust for his sd daur the sd (I W) until she should attain her age of 21 or be married with the consent of the sd (mother) or of his sd trustees after the death of her mother And as soon as she should attain such age or be married with such consent which should first happen then he gave and bequeathed all the residue of his sd este chargeable with the sd annuity therein before mentd unto his sd daur the sd (I W) her exs ads and ass but in case his sd daur should die before she attained such age or be married as afd*

then upon the furr trusts therein contd And the sd (testator) did thby nominate and appoint his sd wife the sd (mother) sole executrix of the sd will And *whas* (recite settlement whereby the manors messes, &c. were conveyed to (trustees) vested to the use of the father for life with reur to the hrs of his body, see *first precedent*) And *whas* the sd (father) and E his wife in the right of the sd E as hr at law of I S her late brother decd are seised in their demesne in fee of and in the sevl freehd heredit hnaft mentd to be hby granted and reld And *whas* a marre is intended to be shortly had and solemnized betn the sd (IH) and the sd (IW) with the consent and approbation of the sd (mother) and upon the treaty for the sd intended marre it was agrd that the sd (trustees under the will) should stand possessed of and interested in the stocks monies and personal este of the sd (testator) and the divds and int of the sd stocks and monies In Trust for the sd (IH) in case the sd intended marre should take effect and the residue of the trust mos stocks or secties for money afd and all or. the psl este to which the sd (IW) the daur now is or will become entitled on her marre shall go and belong to and vest in the sd (IH) by the rights of marre and shall be assd pd and transferred to and vested in him his exs ads and ass at his or their request costs and chas at any time or times after the solemnization of the sd intended marre as he or they shall direct or appt And that in conson of the preses the sd sevl manors messes or tents lds and heredit hnaft decribed and intended to be hby granted and reld or orwise assured with their apts shall be conveyed limited and assured to the uses upon the trusts and with under and subject to the sevl powers provoes limitations declons and agrmts hnaft expsed of and concerning the same Now this Indre witnesseth that for effecting such pt of the sd agrmts as is incumbent for the sd (F) and E his wife and the sd (IH) to perform and in conson of the sd intended marre and of the portion which the sd (IH) will be entitled to with the sd (IW) as hnbefe is mentd and for making some provision for the sd (IW) by way of jointure in case the sd intended marre should take effect and she shall happen to survive And also for docking barring and extinguishing all estes tail and all reur and revns thereupon expectant and depending of and in the manors messes, &c. hnaft described or intended to be hby granted and reld or orwise assured and conveying limiting and assuring the same manors, &c. and all or. the freehold estes of the sd (F) in right of E his wife to

Settle-
ment of
Entailed
Estates.
Settlement.

Father's
property in
right of his
wife.

*Settle-
ment of
Entailed
Estates.*

Habendum.

To uses.

*For secur-
ing rent
charge to
husband.*

*Powers of
distress and
entry.*

and for the sevl uses intents and purps and upon the sevl trusts and under and subject to the sevl powers provoes limitations declons and agrmts hnaftir decld of and concerning the same *And also* for and in conson of the sum of 10s. of, &c. by the sd (*trustees for preserving contingent remrs*) to the sd (*F*) and E his wife and the sd (*I H*) in hand, &c. pd the rect, &c. they the sd (*F*) and E his wife and also the sd (*I H*) with the consent and approbation of the sd (*F*) testified by his being a party to and signing and sealing these prests *Have* according to their respive estes and ints and evy of them *Hath* under and by virtue of the statute for the Abolishing of Fines and Recoveries granted bargained sold aliened and reld and by, &c. *Doth* and evy of them *Doth* grant, &c. All those manors, &c. (*parcels*) unto the sd (*T*) (in their actual posson, &c. see *Release*) and their hrs togr with all houses, &c. And the revn, &c. And all the este, &c. of them the sd (*F*) and E his wife and of the sd (*I H*) and evy of them of into or out of the same preses and evy and any pt thof *To Have and to Hold* the sd manors, &c. and all and singr or. the preses hby granted reld or orwise assured or intended so to be and evy of them and evy pt and pcl thof with their and evy of their apts unto the sd (*T*) their hrs and ass for ever *To* and for the sevl uses intents and purps and upon the sevl trusts and with under and subject to the sevl powers provoes limitations declons and agrmts hnaftir decld and expsed of and concerning the same that is to say *To* the same uses to which the sd preses were and stood immly before the sealing and delivery of these prests in the mean time and until the solemnization of the sd intended marre and from and immly after the solemnization thof Then to the use intent and purpe that the sd (*I H*) and his ass shall and may have rece and take during the jt lives of the sd (*F*) and (*I H*) the yrly rent charge or sum of £ — of lful, &c. to be chargeable upon and yrly issuing and paye out of the sd manors messes or tents lds and hereds hby granted, &c. and to be pd quarterly on the four most usual feasts that is to say at, &c. (state the four quarter days) in evy yr witht any deduction defalcation or abatement out of the same or any pt thof in respect of any parliamentary taxes or any or. taxes rates or chas whatsr assessed or to be assessed or imposed on the same the first quarterly paymt thof to be made on such of the sd days as shall happen after the solemnization of the sd marre *And to and for this furr use* and intent that in case the sd yrly rent charge or sum of £ — shall happen to be behind or unpd for

the space of days, &c. (power of distress, see *Settlements, Gen. Precedent*) And to and for this furr use and intent (power of entry, &c.) And to this furr use and intent that the sd (*I W*) in case she shall survive the sd (*I H*) shall and may immly after his dece have rece and take for and during her natural life for her jointure and in bar of all dower which she the sd (*I W*) might have or claim in or out of any of the real estes which the sd (*I H*) shall be seised of at any time or times during the sd intended coverture one annual rent or yrly sum of £ — of, &c. to be yrly issuing, &c. to be pd, &c. by even and quarterly paymts on the four days hnaft mentd, &c. witht any deduction, &c. (see *above*) the first paymt thof to be made on such of the sd days of paymt as shall next happen after the dece of the sd (*I H*) And to this furr use and intent that in case the sd yrly rent charge or sum of £ — shall be behind, &c. for the space, &c. Then and so often as the same shall happen she the sd (*I W*) and her ass shall and may for the recovery thof and of all costs and chas occasioned by the nonpaymt thof have and enjoy such and the like power of distraining upon all and evy the sd manors messes lds and herdts hby charged with the paymt of the same as is hnbeffe given to the sd (*I H*) for the recovery of the sd annual rent charge or sum of £ — And also in case the sd annual rent charge or sum of £ — shall be in arrear or unpd by the space of days next after any of the days apptd for the paymt of the same the sd (*I W*) or her ass shall and may for compelling paymt of the same togr with all costs chas and dams afd have and enjoy such and the like power of entering upon and keeping posson of all or any of the sd manors messes lds and herdts charged with the paymt thof as hnbeffe is limited to and for the sd (*I H*) and his ass for enabling him and them to recover paymt of the sd yrly rent charge or sum of £ — hnbeffe limited And subject and charged as hnbeffe is mentd To the use and behoof of (*trustees of term*) their exs ads and ass for and during the term of 99 yrs to commence and be computed from the day of the date of these prests and fully to be complete and ended witht impeachmt of or for anymanner of waste upon the sevl trusts and to and for the sevl intents and purps and under, &c. And from and after the end or expiration or or. sooner determination of the sd term of 99 yrs and in the mean time subject thereto as to for and concerning the sd manors, &c. hnbeffe mentd to be limited as afd to the use of the sd (*F*) and his ass for and during the term of his natural life witht impeachment of or for any manner of waste and from and after

*Settle-
ment of
Entailed
Estates.*

Rent charge
to intended
wife.

In bar of
dower.

Powers of
distress and
entry.

Trustees for
term of
99 years.

Limitations
to the use
of father
for life;

*Settle-
ment of
Entailed
Estate.* the determination of that este by forfeiture or orwise in the lifetime of the sd (F) to the use of the sd (T) and their hrs during the life of the sd (F) *In trust to preserve the contingent uses and estes hnaftir limited from being defeated or destroyed and for that purpe to make entries and bring actions as occasion shall require but nevss to permit and suffer the sd (F) and his ass to rece and take the rents issues and profits thof to and for his and their own use during his life and from and immly after the dece of the sd (F) Then to the use of the sd (I H) and his ass during the term of his natural life witht impeachment of or for any manner of waste And from and after the determination of that este by forfeiture or orwise To the use of the sd (T) and their hrs during the life of the sd (I H) but nevss to permit and suffer the sd (I H) and his ass to rece and take the rents issues and prfts thof to and for his and their own use during his life and from and immly after the dece of the sd (I H) To the use of (trustees for the term of 1000 yrs their exs ads and ass for and during and unto the full end and term of 1000 yrs from thence next ensuing and fully to be complete and ended upon the sevl trusts and to and for the sevl uses intents and purps and under and subject to the powers proves decions and agrmts hnaftir expssd and declid of and concerning the same And from and after the end or expiration or or. sooner determination of the sd term of 1000 yrs And in the mean time subject thereto and to the trusts thof To the use of the first and evy son of the body of the sd (I H) on the body of the sd (I W) his intended wife to be begotten severally successively and in remr one after another in order and course as they shall resply be in priority of birth and the hrs male of the body and respive bodies of all and evy such son or sons issuing the elder of such sons and the hrs male of his body always to take before and be preferred to the younger of such sons and the hrs male of his or their body or bodies issuing And in deft of such issue To the use of (daughters as tenants in common, see *Settlement, Gen. Precedent*) And for deft of such issue to the use of the sd (I H) his hrs and ass for ever And as to for and concerning such of the sd preses as descended or came to the sd E wife of the sd (F) as hr at law of the sd I S her late brother To the use of the sd E and her hrs and ass for ever. And it is hby declid and agrd by and betn the pties to these prests that the sd term of 99 yrs hnbeft limited to the sd (T) as afd is so limited to them upon the trusts, &c. (see *Settlements, Gen. Precedent*) for securing the paymt*

After his death to son for life.

Trustees for term of 1000 years.

Upon trusts.

To the use of the sons in tail male.

Limitations to the use of wife of tenant for life.

Trusts of term of 99 years.

of the sevl rent charges or sums of £ — hnbefe resply limited as afd at the days and times and in manner hnbefe mentd and appted for paymt thof resply witht any deduction or abatement as afd And that the sd (T) shall and do permit and suffer the psn or psns to whom the immediate remr and revn of the sd manors, &c. comprised in the sd term of 99 yrs expectant upon the determination thof shall for the time being belong according to the limitations afd to rece and take the rents issues and prfts of the same preses until deft shall happen to be made of or in paymt of the sd yrly rent charges or sums of £ — and £ — hnbefe resply limited or either of them or some pt thof at the times and in the manner hnbefe appted for paymt of the same resply And in case the same yrly rent charges or sums of £ — and £ — or either of them or any pt thof shall happen to be unpd by the space of sixty days next after any of the sd days whereon the same are hnbefe resply directed to be pd Then and so often as the same shall happen although no formal or legal demand shall have been made of the sd yrly rent charges or sums of £ — and £ — or either of them it shall and may be lawful for the sd (T) and the survor of them and the exs, &c. of such survor and he and they is and are hby authorized from time to time to enter into and upon all and evy or any pt or pts of the sd manors, &c. and by and out of the rents issues and prfts or by mortgage demise or sale of all or any pt of the sd term or by bringing actions agst the tenants or occupiers of the same preses for the recovery of the rents then in arrear and by all or any of the sd ways and means or by any or. means as to the sd (T) and the survor, &c. shall seem meet to levy raise and pay all such arrears of the sd yrly rent charges and sums of £ — and £ — as shall be so due and unpd as afd togr with all costs chas dams and exps as the sd (I H or I W) or either of them or either of their exs ads or ass or the sd (T) or the survor, &c. shall or may expend sustain or be put unto by reason of the non-paymt of the sd yrly, &c. £ — and £ — or either of them or any pt thof or of recovering or obtaining paymt of the same or orwise relating thereto and to pay the surplus (if any) of the money raised by the ways and means afd to the psn or pens next in remr or revn for the time being immly expectant upon the determination of the sd term of 99 yrs according to the limitations afd *Provided always* and it is hby decl'd, &c. that from and immly after all the trusts hnbefe decl'd of and concerning the sd term of 99 yrs shall in all respects be fully performed and

*Settle-
ment of
Entailed
Estate.*

*Lesser of
term of
99 years.*

<i>Settlement of Entailed Estates.</i>	satisfied or shall become unnecessary or incapable of taking effect and the sd (T) and the survivor, &c. shall be fully reimbursed and satisfied all costs charges damages and expenses to be occasioned by or relating to the trusts hereby reposed in them as aforesaid the sd term of 99 years of and in the sd manors, &c. shall (subject and without prejudice to any disposition which shall have been made of the sd premises or any of them or any part thereof for the purposes aforesaid) cease, &c. <i>And it is hereby further decided and agreed by, &c.</i> that the sd term of 1000 years limited to the sd (T) and the survivor, &c. is limited to them upon the trusts, &c. (as before) that is to say <i>Upon Trust</i> that in case there shall be any child or children of the sd (I H) on the sd body of the sd (I W) lawfully to be begotten (other than an eldest or only son) they the sd (T) and the survivor do and shall (raise portions for younger children, see <i>Settlement, Gen. Precedent</i>) <i>Provided always</i> (appointed shares to be brought into hotchpot) <i>Provided always</i> (clause of survivorship) <i>And upon this further trust</i> that the sd (T) and the survivor of them, &c. do and shall (raise money for maintenance of younger children, &c.) <i>Provided always, &c.</i> (provision for advancement of younger children, &c.) <i>Provided always, &c.</i> (no sale or mortgage until portions are payable) <i>Provided always, &c.</i> (money advanced by husband to be in part of portions and also cesser of the 1000 years term, see <i>Settlement, Gen. Precedent</i>) <i>Provided always</i> and it is hereby decided, &c. that in case the sd (I W) shall die in the lifetime of the sd (I H) it shall and may be lawful to and for the sd (I H) at any time or times after the decease of the sd (I W) either before or after his intermarriage with any one woman or women by any deed or instrument in writing to be by him sealed and delivered in the presence of and to be attested by two or more credible witnesses or by his last will and testament in writing or by any codicil or codicils thereto to be by him signed or published in the presence of and attested by three or more credible witnesses to grant limit or apportioned to or to the use of any woman or women respectively whom he the sd (I H) shall marry after the decease of the sd (I W) for their life or respective lives by way of jointure and in bar of dower or otherwise as he shall think fit any annual sum or sums not exceeding in the whole for any such woman the yearly sum of £ — of, &c. without any deduction, &c. to take effect immediately after the decease of the sd (I H) such annual sum or sums to be payable quarterly and issuing out of and chargeable upon the sd manors, &c. hereby granted and repleaded or otherwise assured or intended so to be with the usual powers and remedies
Trusts of 1000 years term.	
Provisoes.	
Provision for maintenance.	
Advancement.	
Sale or mortgage, &c.	
Power to create jointure for after-taken wives.	

dies for recovering and enforcing paymt thof resply and also to limit and appt the heredit so to be charged as afd to any psn or psns upon the usual trusts for securing the due paymt thof to take effect immly after the dece of the sd (*I H*) but so that evy such term or terms of yrs if any such shall be limited and be made to determine on the death of the woman or women for the bent of whom the same shall be created and the paymt of the arrears of her or their rent charge or respive rent charges and the exps incurred by the nonpaymt thof resply *Provided always* and it is hby decld, &c. that it shall and may be lful for the sd (*F*) and also for the sd (*I H*) as and when by virtue of the limitations hnbefe contd he shall be in the actual possession of or entitled to the rect of the rents issues and prfts of the sd manors, &c. hby granted, &c. during their respive lives And also to and for the sd (*T*) and the survivor, &c. from time to time during the minority or respive minorities of any child or childn who by virtue of the limitations afd shall for the time being be entitled to the actual possession or to the rect of the rents issues and prfts of the same heredit and preses by any indre or indres to be sealed and delivered by them resply in the presence of and attested by two or more credible witnesses to limit or appt by way of demise or lease all or any pt of the messes lds and heredit hby granted, &c. to any psn or psns who shall improve the same or covt or agree to improve the same by building or erecting thereon any new house or houses erections or buildings or to rebuild or repair any of the messes tents erections or buildings whater which now are or shall hrafter be on the same preses and heredit or any pt thof or to expend such sums of money in improvement thof resply as shall be thought adequate for the ints therein resply to be parted with for any term or number of yrs not exceeding 99 yrs to take effect either in posson or immly after the determination of the subsisting leases for the time being so that in evy such limitation or apptmt by way of demise or lease there be reserved the best and most improved yrly rent or rents to be paye during the continuance of the uses or estes created thby and to be incident to the immediate revn of the heredit so to be limited or appted by way of demise or lease as afd that can be reasonably had or gotten for the same witht taking any fine premium or free gift for the making thof and so that no such limitation or apptmt by way of demise or lease as afd shall be valid in law unless there be inserted therein a clause in the nature of a condon of re-entry on non-paymt of the

*Settle-
ment of
Entailed
Estates.*

*Power to
grant build-
ing leases.*

*Settle-
ment of
Entailed
Estates.*

To grant
leases on
rack rent.

Power of
sale, &c. by
trustees.

Power to
appoint new
trustees.

rent or rents thby to be resply reserved and so as the appteas or lessees do exte a counterpart thof resply and do thby covt for the due paymt of the rent or rents thby resply to be reserved *Provided also* and it is hby furr agrd and declid, &c. that it shall and may be lful for the sd (F) and also for the sd (I H) as and when, &c. (power to grant leases at rack rent) *Provided also* and it is hby furr declid and agrd, &c. that it shall and may be lful for the sd (T) and the survor, &c. at any time or times after the solemnization of the sd intended marre at the jt request and by the jt direction of the sd (F) and the sd (I H) and after the dece of either of them then at the request and by the direction of the survor of them testified by some writing under their or his hand and seal and attested by three or more credible witnesses to dispose of (power of sale or exchange, see *Gen. Precedent*) *Provided always* and it is hby declid, &c. that if the sd (T) in and by these prests nominated, &c. or any future trustee or trustees, &c. shall happen to die, &c. Then and in such case it shall and may be lful to and for the sd (F) and (I H) or the survor of them, by any deed, &c. to nominate, &c. (power to appt new trustees) And in order that such manors and or. heredit may be legally and effectually conveyed to or vested in such new trustee or trustees jointly or solely as occasion may require it shall and may be lful for the sd (F) and (I H) and the survor of them by any deed, &c. to revoke determine and make void the uses, &c. limited declid and expsd of and concerning the sd manors, &c. hby granted and by the same or any or. deed, &c. to be sealed delivered and attested as afd to limit declare or appt any new use or uses este or estes trust or trusts of and concerning the same heredit and preses which it shall be thought necessary to limit declare or appt for the purpe of conveying and vesting the same preses to or in such new trustee or trustees jtly or solely as occasion may require and that evy such new trustee or trustees shall and may in all things act and assist in the management carrying on and exon of the trusts to which he or they shall be so appted in conjunction with the then surviving or continuing trustee or trustees of the same trust estes mos and preses resply if there shall be any such surviving or continuing trustees and if not then by himself and themselves as fully and effectually and with all the same powers and authties whater to all intents and purps as if he or they had been originally in and by these prests nominated a trustee or trustees for the purps afd *Provided also* and it is hby furr declid and agrd, &c. that the sd (T) or any future trustees to

be apptd by virtue of the proviso last hnbefe contd and each and evy of them their and each of their hrs exs and ads shall be charged, &c. (indemnity to trustees) And they the sd (F) and E his wife and the sd (I H) each for himself or herself his or her hrs exs and ads do according to their respive rights and ints covt, &c. with the sd (T) their hrs exs ads and ass in manner following that is to say That for and notwithstanding any act deed matter or thing whatsr made done, &c. by them the sd (F) and E his wife and the sd (I H) or either of them or either of their ancestors to the contrary he the sd (F) is lfully, &c. seised, &c. or orwise, &c. entitled to the sd manors messes, &c. hby granted or reld, &c. or intended so to be and of and to evy of them, &c. for an este of freehd in posson during the term of his natural life And that he the sd (F) and E his wife are or one of them is lfully seised, &c. of the sd messes, &c. which descended, &c. and which are also lby granted, &c. for an este of inhance in fee simple, &c. And that the sd (I H) is seised of the same manors, &c. for an este of inhance in fee tail in remr and of the sd messes, &c. for an este, &c. in fee simple in remr without any manner of condon trust power of revocation or limitation of any new or or. uses or any or. restraint matter or thing whater to defeat alter charge change or determine the same estes resply And that for and notwithstanding suth act deed matter or thing as afd they the sd (F) and E his wife and the sd (I H) or one of them now at the sealing and delivery of these prests have or hath in himself herself or themselves full power, &c. by virtue of the power given to them by the Statute for the Abolition of Fines and Recoveries to grant, &c. the sd manors, &c. and evy of them and evy pt and pcl thof with their sevl rights members and apts unto the sd (T) and their hrs to the uses upon the trusts and for the intents and purps hnbefe expsd and decl'd of and concerning the same according to the true intent and meaning of these prests And that the same manors, &c. hby granted, &c. with their and evy of their rights, &c. shall and lfully may from time to time and at all times hrafr remain continue and be to the uses upon the trusts and for the ints and purps hnbefe limited expsd and decl'd of and concerning the same and shall and may be peaceably and quietly had held and enjoyed and the rents issues and prfts thof recd and taken accordingly witht the let suit denial eviction ejection disturbance interruption claim or demand whater of from or by the sd (F) and E his wife and the sd (I H) or either of them their or either

Settlement of Entailed Estate.

Covenants for title from father and husband.

Rightfully seised.

Good right to convey. Quiet enjoyment.

*Settle-
ment of
Entailed
Estates.*

Free from
incum-
brances.

Further
assurance.

Covenant
from wife
to acknow-
ledge deed.

of their hrs or the hrs of the body of the sd (*I H*) or any psn or psns claiming or to claim by from through under or in trust for him them or either of them or their or either of their ancestors or the sd *J S* decd the late brother of the sd *E* And that free and clear and freely and clearly and absolutely acquitted exonerated and discharged or orwise by them the sd (*F*) and *E* his wife and the sd (*I H*) or one of them their or one of their hrs exs and ads well and sufficiently saved defended kept harmless and indemnified of from and agst all former and or. gifts grants bargains sales mortgages jointures dower uses entails rents and arrears of rent statutes judgments recognizances chas and incumbrs whatsr made done or committed or wittingly or willingly suffered by the sd (*F*) or *E* his wife or the sd (*I H*) or either of them their or any of their ancestors or the sd *J S* decd the late brother of the sd *E* or any psn or psns claiming or to claim by from through under or in trust for them or any of them And moreover that they the sd (*F*) and *E* his wife and the sd (*I H*) and each of them their and each of their hrs and the heirs of the body of the sd (*I H*) and evy or. psn having or fully, &c. (see *Release*) shall and will from time to time and at all times after the solemnization of the sd intended marre upon evy reasone request to be made for that purpe by the sd (*T*) or the survor of them, &c. or by any of the pties interested in the preses but at the costs and chas of the psn requiring the same make do, &c. all furr and or. acts, &c. for the better more perfectly and absolutely granting releasing confirming and assuring the sd manors messes or tents lds heredit and preses hby granted reld or orwise assured or intended so to be and evy of them and evy pt and pcl thof with their rights, &c. to the uses upon the trusts and for the intents and purps and with under and subject to the powers provoes limitations declons and agrmts hnbefe limited expsd and declared of and concerning the same or such of the same as shall be subsisting undetermined and capable of taking effect as by the sd (*T*) or the survor of them his hrs, &c. or any of the pties interested in the preses under these prests or his or their counsel in the law shall be reasonably advised devised or required so that such furr assurance or assurances imply no furr or or. warrant than agst the psn or psns, &c. (see *Release*) And lastly for the furr assurance of the sd heredit and preses which descended to the sd *E* as heir at law of the sd *J S* her late brother decd and in pursuance of the statute in that behalf made and provided He the sd (*F*) doth hby

for himself his hrs, &c. and for the sd E his wife (she hby consenting) covt, &c. with the sd (T) and the survivor, &c. that she the sd E shall and will at any time or times from and immly after the solemnization of the sd intended marre upon the reasone request of the sd (T) but at the costs and chas of the sd (F) appear before a judge of one of the superior courts at Westminster (or 'a master in Chancery' or if in the country 'two of the perpetual commissioners appted for the acknowledgement of deeds by married women,' *as the case may be*) and duly acknowledge these prests in such manner that the same may be certified and entered of record in his Majesty's Court of Common Pleas at Westminster *And this Indre furr Witnesseth* That under and by virtue of the power given to them the sd (F) and (I H) by the statute for the Abolition of Fines and Recoveries they the sd (F) and the sd (I H) and each of them do hby nominate constitute and appt the sd A B and C D protectors of the settlement hby intended to be made in the place of the sd (F) And it is hby furr agrd that in case either of them the sd A B or C D shall die or relinquish the office of protector it shall and may be lful for the surviving or continuing protector in pursuance of the power herein contd during the life of the sd (F) or the sd (I H) by any deed or deeds duly exted to appt any one or more pans being in esse and not aliens to be protector of the same settlement provided that the number of persons composing the protector of the sd settlement shall never exceed three *In Witness, &c.*

*Convey-
ance of
Copyholds*

*Appoint-
ment of
protectors.*

*Surrender of Copyholds to a Purchaser by Tenant in
Tail with Consent of Protector.*

Obs. 1. As to the mode of conveying the legal estate of copyholds, see Pref. § 2.

2. As to the entry of the deed on the court rolls generally, see Pref. § 8. If the consent of the protector be given by deed, it must (by s. 51) be entered on the court rolls on or before the surrender, and an acknowledgement that it was produced within the limited time, signed by the lord or steward, must be indorsed thereon, and after the entry of the deed, a memorandum must be signed by the lord or steward, testifying the entry. If the consent be not given by deed, then (by s. 52) it must be given to the person taking the surrender, and if the surrender be taken out of court, then the memorandum of the surrender, stating the consent, must be signed by the protector, after which the memorandum must be entered on the rolls. If the surrender be taken in court, then a statement of the consent must be entered on the rolls.

3. A deed of covenants is usually executed either before or after the surrender, for which see Purchase Deeds.

*Convey-
ance of
Copyholds* The Manor of in } *Be it Remembered* That at this
 the county of } Court came (*vendor*) of, &c.
 one of the customary tenants of the manor afd and in
 conson of the sum of £ — to him well and truly pd by
 (*purchaser*) of, &c. with the consent of (*protector*) of, &c.
 the protector duly acknged pursuant to the statute in
 that behalf made and provided and for the purpe of dock-
 ing and barring all estes tail and all revns and remrs
 expectant thereon surrendered into the hands of the
 lord of the sd manor by the acceptance of the sd steward
 according to the custom of this manor *All that*, &c.
 with their appts to which the sd (*V*) was admitted
 tenant at a general court holden for this manor on the
 day of And the revn and revns remr and remrs
 yrly or or. rents issues and prfts thereof And all the
 este right int trust bent property claim and demand
 whater of him the sd (*V*) in to or out of the same preses
 and evy pt thereof with their appts To the use and
 behoof of the sd (*P*) and his hrs and ass for ever accord-
 ing to the custom of this manor discharged from all
 estes tail, &c.

*Conveyance by Bargain and Sale of an equitable Estate-
Tail in Copyholds to a Purchaser where there is no
Protector.*

Obs. 1. Where the equitable and legal estate-tail in a copyhold were in several persons, the owner of the equitable estate formerly could not bar the entail, unless the trustee joined, so as to enable him to make a proper and regular surrender, although equity in some instances extended its relief where the party was aggrieved by the refusal of the trustee; *Otway v. Hudson*, 2 Vern. 583. The provision in the Act (s. 50) enabling the tenant in tail to dispose of his estate without a surrender, has obviated this inconvenience.

2. The deed of conveyance, as also the deed of consent by the protector, if there be one, must (by s. 53) be entered on the court rolls, and a memorandum, signed by the lord of the manor or the steward, must be indorsed on the deed, testifying the entry.

This Indre made, &c. Betn (*vendor*) of, &c. of the
 one pt and (*purchaser*) of, &c. of the or. pt *Whas* at
 a court-baron holden on the day of for the
 manor of F — in the co. of N —, I G being seised of
 certain copyhold preses held of the sd manor surren-
 dered them to the use of (*trustees*) and their hrs To
 the uses of his will And on the same day made his
 will and decl'd that the sd (*T*) shd stand seised of the
 preses to the use (among or. uses) of I son of I G for
 life with remr to the heirs male of his body with sevl
 remrs over *And whas* the sd I G departed this life on
 or about the day of leaving (*V*) his eldest son

and heir him surviving who became seised of the equitable este-tail of and in the sd messe and preses *And whas* the sd (V) &c. (contract for sale) *Now this Indre Witnesseth* That for the purpe of barring and extinguishing the equitable este tail of him the sd (V) of and in the messe or tent pce or pcl of ld hrafr described and all remrs and revns thereupon expectant and depending and in conson of the sum of £ — by the sd (P) at, &c. to the sd (V) in, &c. pd the rect whereof and that the same is in full for the absolute purchase of the sd messe, &c. He the sd (V) by virtue and in pursuance of the powers to him given by the statute for the Abolition of Fines and Recoveries *Hath* granted bargained and sold and by these prests *Doth* grant, &c. unto the sd (P) and his hrs *All that* messe or tent pce or pcl of land situate, &c. (parcels) *Togr* with all houses, &c. (see *Release*) And the revn, &c. And all the este, &c. of him the sd (V) of in and to the sd messe, &c. and evy pt thof with their rights members and appts *To the Intent* That the sd (P) may be admitted tenant to the sd messe or tent and all and singr the copyhold heredit and preses *To Hold* to him his hrs and ass for ever at the will of the lord of the manor according to the custom of the sd manor subject only to the rents duties suits and services therefore due and of right accustomed *And* it is hby furr decld and agrd that until the sd (P) shall be admitted tenant to all and singr the sd copyhd lds and heredit to hold to him his hrs and ass for ever freed and discharged from the sd este tail and all remrs and revns expectant thereon and all or. incumbs except the sd customary duties suits and services the sd (V) and his hrs shall and will stand and be possed of the sd copyhd lds and heredit *In Trust* for the sole use and bent of the sd (P) his hrs and ass to be surrendered and disposed of as he or they shall direct *And* the sd (V) for himself (covenants for Title, see *Release*) *In Witness*, &c.

*Convey-
ance of
Copyholds*

*Memorandum to be Indorsed on the Deed of Conveyance
of a Copyhold Estate.*

I, A B of, &c. (lord or steward) lord or 'steward' of the within-named manor of S — Do hby testify that the within-written indre ['And also the consent of (protector) the protector,' &c.] hath been duly entered on the court rolls of the sd manor pursuant to the Act of Parliament in that case made and provided Witness my hand this day of 18 A B

To Sur-
render
Copyholds

Covenant for the Surrender of Copyhold Lands by Husband and Wife to a third Person, for the Use of the Husband.

Obs. A husband and wife may surrender the wife's copyholds, provided the wife is privately examined by the steward; Gilb. Ten. 277, 312; *Compton v. Collinson*, 1 H. Bl. 332; and when the custom authorizes her to surrender, she may surrender to the use of her husband, for the conveyance is through the intervention of the lord; 1 Watk. Cop. 93, Cov. Edit. But a custom for a married woman to surrender her copyhold lands without the consent of her husband is void; *Stevens v. Tyrrell*, 2 Wils. 1; and by the 3 & 4 W. IV. c. 74, s. 77, it is declared that the provisions made in respect to alienation by married women are not to extend to copyholds in any case where the objects of such provisions might have been effected, before the passing of the Act, by her, with the concurrence of her husband.

Recital of
will.

Of death
and probate
of will.

Covenant
from hus-
band to sur-
render
copyholds
to a trustee.

This Indre made, &c. Betn (husband) of, &c. and M his wife of the one pt and A B of, &c. of the or. pt Whas G F late of, &c. decd after having made a surrender or surrenders To the use of his will by his last will and testmt bearing date, &c. among or. devises and bequests therein contd subject to a life interest to and R since decd gave devised and bequeathed all his freehold copyhold and leasehold messes lds tents and hereds situate at or elsewhere in the par. co. of unto the sd (wife) by the description of his sd daur her hrs exs ads and ass And whas the sd testator departed this life on or about month of witht altering or in any wise revoking his hnbefe in pt recited will and the sd will of the sd testator hath been duly proved in the Prerogative Court of the Archbishop of Canterbury Now this Indre Witnesseth That in conson of the love and affection which the sd (W) hath and beareth for and towards the sd (H) she the sd (W) having voluntarily agrd to give and settle the sd copyhd messes lds tents and hereds to or in trust for the sd (H) her husband his hrs exs ads and ass for ever or according to her este and int therein it is hby granted concluded and decld by and betn the pties to these prests and the sd (H) at the instance and request of the sd (W) his wife testified by her being a pty to and exting these prests doth hby for himself his hrs, &c. covt and agree with the sd A B That he the sd (H) and M his wife she hby consenting shall and will at the costs and chas of the sd (H) his hrs exs ads or ass at or before the next or some or. general court-baron to be kept in and for the sd manor and respive manors of which the sd copyhd messes, &c. so devised to the sd (W) as afl are resply holden surrender or cause to be surrendered out

of his her or their hands into the hands of the sd lord or lords lady or ladies of the sd manors respy *To Surrender Copyholds* all and evy the copyhd or customary messes, &c. situate in afd which were devised, &c. togr with their respive rights members and appts and the revn, &c. with the appts To the use of the sd A B his hrs and ass to be held of the lord or, &c. of the manor or manors respy by the customary rents and services therefore respy due and of right accustomed to be pd and shall and will cause the sd A B or his hrs to be admitted tenant or tenants thereto accordingly And it is hby decid and agrd by and betn the pties to these prests and the sd (H) and M his wife do hby direct and appt that the sd copyhd messes, &c. hby covtd and agrd to be surrendered to the use of the sd A B his hrs and ass as afd shall when and so soon as the same respy shall have been surrendered to his or their use be held by him or them *Upon Trust* for and for the only bent of the sd (H) his hrs and ass for ever or for all the este or int or estes or ints therein which shall pass or be transferred to the sd A B his hrs or ass by virtue or means of the surrender or surrenders hby covtd to be made to his or their use as afd And upon no or, trust nor for any or, intent whatsr (add, if necessary, covenants for title, see *Purchase Deeds*) *In Witness, &c.*

Declaration
of trusts.

Surrender by Husband and Wife.

Obs. As to the entry of this deed on the court rolls, see Pref, § 8.

At this Court came A B a copyhd or customary tenant of this manor and C his wife (she the sd C being solely and secretly examined by the sd steward apart from her husband according to the custom of the sd manor and consenting thereto) and surrendered into the hands of the lord of the manor by the rod by the acceptance of the steward afd (if the surrender be made to the lord himself say, 'into the proper hands of the lord of the sd manor and by the psl acceptance of the sd lord') All that messe, &c. situate at within this manor called S — And also all that or, messe, &c. which sd messe, &c. and messe, &c. were holden of the lord of the manor togr at the yrly rent or sum of £ — and all the este right title and int of them the sd A B and C his wife of in or to the same with their appts to the intent and purpe that the lord might regrant, &c. the messe, &c. and preses To the use and behoof of E F of, &c. yeoman his hrs and ass for ever *To Hold the same sevl and respive messes or tents lds and preses*

*Assign-
ment of
Entailed
Money.*

in manner afd unto the sd E F his hrs and ass for ever according to the custom of the manor

Assignment of Entailed Money to a Trustee with the Consent of the Protector.

Obs. As to the purpose and operation of this assignment, see Pref. § 6. And as to the enrolment of the deed, see § 8.

*Recital of
settlement.*

This Indre made, &c. Betn (protector) of, &c. of the first pt (tenant in tail) eldest son of the sd (P) of the second pt and A B of, &c. of the third pt Whas by indres of lease and rele bearing date, &c. and made betn the sd (P) of the first pt (guardian) of, &c. guardian of (wife) and (wife) of the sd (P) therein described by her then name of M B of the second pt (trustees) also therein described of the third and fourth pts and purporting to be a settlement made previously to, &c. certain freehold copyhold and leasehold lds therein parlarly described were conveyed to the sd (T) to the uses upon the trusts and to and for the intents and purps and with under and subject to the powers provos limitations declons and agrts thrafr expsd and deold of and concerning the same And the sd indre of settlement contains a proviso enabling the sd (T) with the consent in writing of the sd (protector, tenant for life) to sell or exchange the sd heredit and preses or any of them with a direction to invest the money to arise from such sale or exchange in the purchase of or. freehd lds in the county of and in the mean time and until such purchase to stand possessed of and interested in the sd mos upon the trusts to and for the uses intents and purps and with under and subject to the powers provos declons and agrts in and by the sd in pt recited indre expsd and deold of and concerning the freehd, &c. lds, &c. thby conveyed to the sd (T) and to invest the same in the names of the sd (T) in the public stocks or funds or or. govnmnt secties And whas the sd (T) by virtue and exercise of the power given to them in and by the sd in pt recited indre have made sundry sales of estea situated in the cos of N — and S — and have invested the mos arising or recd from such sales in the purchase of £ — 3 per cent. consolidated Bk Annties And the same is now standing in the names of the sd (T) for the purps of the sd indre of settlement until such time as a purchase of lands can be conveniently made (a)

(a) If it be by will, after reciting devise of real estates to trustees, say, 'And the sd (testator) gave and bequeathed to the sd (T) or the survivor of them his exs ads or ass all the residue of his personal este after payment of his just debts funeral and testamentary expa

And whas the sd (T T) is desirous of obtaining the sd sum of £ — 3 per cent., &c. so standing in the names of the sd (T) for the purps afd and the sd (P) hath agrd to give his consent thereto in manner hnaft mentl *Assign- ment of Entailed Money.* Now this Indre Witnesseth That in order to discharge the sd sum of £ — 3 per cent., &c. from the trusts expsd and decld in and by the sd in pt recited indre of settlement (or 'will') of and concerning the same and in order to defeat the estate tail in remr of him the sd (T T) and all remrs and revns expectant or depending thereon (a) He the sd (T T) by and with the consent of the sd (P) and under and by virtue of the power tq him given in that behalf by the statute for the Abolition of Fines and Recoveries (b) Hath assd and by these prests Doth assign unto the sd A B his exs ads and ass All that the sum of £ — 3 per cent. And all or. the mos stocks funds and secties arising from the sale or exchange of the sd lands and hereds the produce of which in case these prests had not been exted would have been subject to have been invested in the purchase of land under the trusts of the sd indre (or 'will'). And all the este, &c. of the sd (T T) of in to and out of the sd sum of £ — stocks funds and secties hby assd or intended so to be To Have and to Hold the sd sum of £ — and all and singr or. the preses hby assd unto the sd A B his exs ads and ass freed and absolutely discharged of and from (c) the trusts powers and autho-

Upon Trust to convert into money so much or such pt of the sd residue as should not consist of ready money and invest the same in the purchase of freehold lds in the county of and to stand possessed of and interested in the sd lds and hereds so purchased upon such and the same trusts, &c. as were thereinbefo expsd and decld of and concerning the lds thby devised and in the mean time, &c. as above And whas (recite death of testator and probate of will) And whas after payment of debts, &c. there remained the sum of £ — the surplus of the testator's pal este and the same has been invested by the sd (T) in the purchase of £ — 3 per cent. consolidated Bk Annties and is now standing in their names in, &c. until such time as a purchase of lds can be conveniently made for the purps of the sd will.

(a) If any consideration is to be given to the tenant for life for his share in the fund, and he is a conveying party, say, 'And also in conson of £ — pt of the sd sum of £ — 3 per cent., &c. to be pd to the sd (P) in satisfaction of his share and int in the sd sum of £ — 3 per cent. They the sd (P) and the sd (T T) Have and each of them according to their respive ints Hath, &c.'

(b) If there be prior subsisting charges, say, 'Subject nevns to the prior limitations of the sd in pt recited indre of settlement prior to the sd este tail.'

(c) If there be prior subsisting charges, say, 'but subject and with prejudice to the prior limitations of the sd in pt recited indre.'

Partition by Tenants in Tail. rities in and by the sd in pt recited indre (or 'will') expsd and decld and of and from the este tail of him the sd (T T) and all or. estes tail, &c. (a) To the intent that the sd A B may reassign the same sum of £ — 3 per cent. unto the sd (T T) his exs ads and ass as his psl este *In Witness, &c.*

Reassignment by the Trustee indorsed on the foregoing Deed of Assignment.

Know all Men That I, A B the within-named trustee do hby reassign All that the sd sum of £ — 3 per cent., &c. assd to me by the within-written indre And all the este right and title of me the sd A B of in and to the sd sum of £ — *To Have and to Hold* the sd sum of £ — and the preses hby assd or intended so to be unto the within-named (T T) his exs ads and ass as his psl este discharged as within expsd (b) *In Witness, &c.*

Deed of Partition between three Tenants in Tail in common, in which the Wife of one joins in order to extinguish her Right of Dower, and the Wife of another joins in order to convey her Estate.

Obs. As to the different modes of effecting partition, see *Partition*; and as to the enrolment of this deed, see *Pref. § 8.*

Recital of settlement.

This Indre made, &c. Betn I B of, &c. eldest son of I B late of, &c. decd and S his wife of the first pt H B of, &c. second son of the sd I B decd of the second pt R L of, &c. and M his wife late M B daur of the sd I B decd of the third pt and (trustee) of, &c. of the fourth pt *Whas* by indres of lease and release bearing date, &c. and made or expsd to be made betn the sd I B decd of the first pt M B late wife of the sd I B decd by her then name and description of M A spinster of the second pt and (trustees) therein-described of the third and fourth pts purporting to be a settlement made in contemplation of the marre soon after solemnized betn the sd I B and M B the messes or tents farms lds and hereds therein and hnaft more parlarly described were conveyed, &c. to the sd (T) to the use of the sd I B, &c. with remr to the chn of the marre if more than one as tenants in common and the hrs of their

(a) Or, 'In Trust to permit the sd (T T) his exs ads and ass to rece and take the fund to his and their absolute use and bent as his personal este;' or, 'In Trust,' &c. (here any other limitations to uses may be added.)

(b) 'But subject to such limitations as within expsd.'

respive bodies and if but one child then to the use of that only child and the hrs of his or her body *And whas* (recite death of mother in the lifetime of the father) *And whas* the sd I B departed this life on or about leaving the sd I B, H B and M L him surviving *And whas* the sd I B, H B, R L and M his wife have agrd to make partition of the sevl messes farms, &c. in manner and to and for the uses intents and purps hnafttr expssd of and concerning the same *Now this Indre Witnesseth* That in order to dock bar and extinguish all estes tail of them the sd I B, H B and R L and M his wife in her right of and in the messes, &c. hby bargd, &c. or intended so to be and all remrs and revns thereupon expectant and in conson of 5s. to each of them the sd I B and S his wife H B and M L by the sd (T) in, &c. pd the rect, &c. they the sd I B and S his wife H B and R L and M his wife *Have* and each of them according to their respive ints and by force of the statute for the Abolition of Fines and Recoveries *Hath* granted bargained sold and reld and by, &c. *Do*, &c. and each of them *Doth* grant, &c. unto the sd (T) (in his actual posson, &c. see *Release*) and his hrs *All those* messes, &c. (*parcels*) Togr with all houses, &c. And the revn, &c. And all the este right title int use trust inhance term and terms for yrs and for life property posson bent equity of redemption claim and demand whatsr of the sd I B and S his wife H B and R L and M his wife of in to or out of the sd messes *To Have and to Hold* the sd messes, &c. and all and singr or. the preses hby bargd and sold or orwise assured or intended so to be and evy of them and evy pt and pcl thof with their and evy of their rights members and appts unto the sd (T) his hrs and ass for ever freed and absolutely discharged from all estes tail and all remrs and revns expectant or depending thereon *To the uses upon the trusts* And to and for the sevl intents and purps hnafttr expssd and decld of and concerning the same that is to say *As to for and concerning* such pt or pts of the sd messes farms, &c. hby granted and reld, &c. as are coloured green and delineated on the map or plan in the margin of these prests *To the Use* of the sd I B his hrs and ass for ever to be by him and them held in severalty in lieu of the undivided pt or share of the sd I B of and in the sd messes, &c. hby granted, &c. *And to the intent* that the title of the sd S wife of the sd I B to dower out of the sd messes, &c. so allotted to him the sd I B as afd shall and may be absolutely extinguished *And as to for and concerning* such pt or pts of the sd messes, &c. as are coloured yellow and delineated, &c. *To and To the use* of the sd H B and his ass for ever to be by him and

Partition
by
Tenants
in Tail.

Death of
mother and
father.

Agreement
for parti-
tion.

Habendum.

Declaration
of uses.

As to I B's
share.

As to H B's
share.

*Partition
by
Tenant
in Tail.*

As to R and
ML's share,
To the use
of the wife
or the app-
ointees,
&c.

To husband
for life.

To wife's
appoint-
ment by
will.

Covenant
that wife's
shall ac-
knowledge
deed.

them held, &c. (*as before*) And it is hby decld that any wife of the sd H B who shall happen to survive him the sd H B shall not be entitled to dower out of the sd messes, &c. so allotted to him the sd H B as afd And *as to for and concerning* such pt or pts of the sd messes, &c. as are coloured red and delineated, &c. *To the use* of such psn or psns for such estes and ints and subject to such powers provos declons condons restrictions and limitations as they the sd R L and M his wife by any deed or deeds in writing to be by them sealed, &c. shall from time to time limit direct and appt and in deft of and until such diron limitation and apptmt and so far as such diron limitation and apptmt shall not extend *To the use* of the sd (T) his hrs and ass during the jt lives of the sd R L and M his wife *Upon Trust* that the sd (T) and his exs and ads do and shall collect and rece the rents and profits of the sd messes, &c. as and when they shall become paye and pay the same to such psn and psns and for such intents and purps as the sd M L notwithstanding her coverture shall from time to time but not by way of anticipation direct and appt and in deft of such direction and apptmt into her own proper hands for her sole and separate use with being liable to the debts control interference or engagements of the sd R L her husband and the rects of the sd M L shall be good and sufficient discharges for so much as in any such rect is expasd and ackngd to be recd And if the sd M L shall survive the sd R L *Then to the use* and behoof of the sd M L her hrs and ass for ever But if the sd M L shall die in the lifetime of the sd R L then to the use of the sd R L during the term of his natural life and from and immly after his dece then *To the use* of such psn or psns for such estes and ints and with, &c. as she the sd M L notwithstanding her coverture shall by her last will and testmt in writing or by any codicil thereto or by any writing in the nature of or purporting to be her last will to be by her duly signed and published in the presence of and attested by three credible witnesses limit and appt and in deft of such limitation and apptmt to the use of the sd M L her hrs and ass for ever To be held by her and them in severalty and in lieu of the undivided pt or share of the sd R L and M his wife in her right of in to or out of the entirety of the sd messes And the sd I B doth hby for himself his hrs exs ads and ass and for the sd S his wife she hby consenting thereto and the sd R L doth hby for himself his hrs, exs, &c. and the sd M his wife she also hby consenting thereto covt, &c. with, &c. the sd (T) his hrs, &c. that they the sd S and M shall sevlly appear before, &c. and sevlly acknge

these prests as her respive deed pursunat to the statute in that behalf made and provided so as, &c. And each of them the sd I B and S his wife H B and R L and M his wife so far as regards their respive undivided pts or shares of or in the sd messes, &c. hby granted reld or orwise assured or intended so to be doth hby for himself herself and themselves sevlly and for his her or their respive hrs exs ads and ass covt, &c. with, &c. the sd (T) his hrs, &c. in manner following that is to say That for and notwithstanding any act deed, &c. made, &c. by them the sd I B and S his wife H B and R L and M his wife or the sd I B decd they the sd I B and S his wife H B and R L and M his wife or some of them now have in themselves good right, &c. (see *Release*) to grant, &c. to and upon the uses and trusts expsd and decld of and concerning the same And that the same lds shall and may peaceably, &c. be held and enjoyed accordingly witht any let, &c. of from or by the sd I B and S his wife H B and R L and M his wife or any or. psn or psns, &c. claiming, &c. by from, &c. them either or any of them or by, &c. the sd A B their late father And that free and clear and freely, &c. acquitted, &c. and kept indemnified of from, &c. all and all manner of former gifts, &c. and incumbs at any time, &c. made, &c. by them the sd I B and S his wife H B and R L and M his wife or either or any of them or by any or. psn, &c. claiming, &c. by, &c. them, &c. or by, &c. the sd I B decd And moreover that they the sd I B and S his wife H B and R L and M his wife and each of them their and each of their hrs, &c. and all psns claiming, &c. by, &c. them or either of them or by, &c. the sd I B decd shall, &c. upon evy reasone request, &c. to be made for that purpe but at the costs and chas in the law of the psn or psns beneficially entitled to the same preses by virtue of the uses and limitations hnbeffe expsd and decld or any of them make do acknge and and exte all such furr, &c. acts, &c. for the furr, &c. granting, &c. the sd messes, &c. hnbeffe granted or reld or orwise assured or intended so to be and evy pt thof with their appts to the uses hnbeffe limited and decld of and concerning the same as by the sd psn, &c. or his or their counsel, &c. shall be reasonably advised, &c. And whas upon the treaty for the sd partition it was agrd that the sevl deeds evidences and writings relating to the sd messes, &c. hby granted or intended so to be should be deposited with the sd I B upon his entering into the covts hnafttr contd Now this Indre furr Witneseth That in conson of the preses he the sd I B doth pby for himself his hrs and ass covt, &c. with, &c. the

Partition
by
Tenants
in Tail.

Covenants
for title.

Good right
to convey.

Quiet en-
joyment.

Free from
incum-
brances.

Further
assurance.

Agreement
as to title
deeds.

Further
testatum.

*Mortgage
by Tenant
in Tail.*

sd (T) and with them the sd H B and R L and M his wife and each of them their and each of their hrs and ass that he the sd I B his hrs, &c. shall and will from time to time and at all times hrafr unless prevented by fire or or. inevitable accident witht his deft upon evy reasone request of and at the proper costs and chas of the psn or psns for the time being beneficially entitled to the preses marked, &c. and delineated, &c. produce and show forth or cause, &c. to him her or them or to such psn or psns as he or they shall direct or appt or at any trial, &c. for the manifestation of the este, &c. of the psn or psns for the time being entitled to the same preses And also that he the sd I B his, &c. shall, &c. from time to time, &c. give, &c. to him, &c. copies, &c. to be examined, &c. with the originals thof as he, &c. shall direct and appt In Witness, &c.

Mortgage in Fee with a Power of Sale from a Man and his Wife, Tenant in Tail in Remainder, with Consent of Protector.

Obs. 1. As to mortgages generally, see *Mortgages*. As to the effect of a mortgage in fee to bar the entail, see Pref. § 3. As this effect cannot (by s. 43) be defeated by any declaration in the mortgage deed, a mortgagor who wishes his estate to remain subject to the old limitations must declare his intentions by a separate deed.

2. Where a husband and wife join in a mortgage of her estate, and the equity of redemption be reserved to her and her husband or the survivor of them, equity will consider the husband as trustee for the wife, unless there be some intention expressed that a new settlement should be made; *Innes v. Jackson*, 16 Ves. 356. 1 Bligh, 104. 1 Rep. Hus. and W. 154. To obviate all doubts, the clause of redemption ought to be framed with precision.

3. Where a tenant for life joins with a remainder-man, it is usual to reserve to the former all the powers appended to his estate; but if he has any power vested in him that would defeat the mortgage, he is sometimes required to enter into a covenant that he will exercise the power as the mortgagee shall direct.

4. As to the enrolment of this deed, see Pref. § 8. If the case will admit of it, a separate deed may be executed by the mortgagor, in order to disentail the estate, sq as to obviate the necessity of enrolling the mortgage deed.

*Recital of
seisin.*

This Indre made, &c. Betn (protector) (a) of, &c. of the first pt I N of, &c. and E his wife of the second pt and R K of, &c. of the third pt Whas the sd I N and E his wife in her right are seised of an estate in fee tail in remainder expectant upon the dece of the sd (P) of and in the messe piece or pcl of ground, &c. hnafr described and intended to be hby granted and reld with

(a) Where the protector consents by a separate deed, it is not necessary to make him a party.

their apts *And whas* the sd I N having occasion for the sum of £ — hath applied to and requested the sd R K to advance and lend him the sd sum of £ — which he hath consented to do upon having the same secured upon the sd messe piece or pcl of ground *And whas* (a) the sd (P) hath agrd to consent to the conveyance and assurance of the sd messe, &c. to the sd R K for the purps hnaftmentd *Now this Indre Witnesseth* That in conson of the sum of £ — of, &c. by the sd R K in hand, &c. pd to the sd I N with the privity and consent of E his wife (testified by her being a pty to and sealing and delivering of these prests) the rect whereof they the sd I N and E his wife do hby acknge and thereof and from every pt thereof do and each of them doth acquit rele and discharge the sd R K his hrs exs and ads and evy of them for ever by these prests they the sd I N and E his wife by virtue and in pursuance of the power to them given by the Statute for the Abolition of Fines and Recoveries *Have* and each of them according to their respite ints *Hath* granted bargained and sold and by, &c. *Do* and each of them *Doth* grant, &c. unto the sd R K his hrs and ass *All that* the remr of the sd I N and E his wife in her right expectant upon the dece of the sd (P) of and in *All that* messe, &c. (*parcels*) *Togr* with, &c. (see *Release*) And all the este right title, &c. of him the sd I N and E his wife in her right of in to and out of the sd messe, &c. subject and witht prejudice to the este for life of the sd (P) *To Have and to Hold* the sd messe or tent, &c. and all powers (b) and privileges appendant or annexed to the same este and all and singr or. the preses hby granted and bargained or orwise assured or intended so to be with their and evy of their apts unto the sd R K his hrs and ass unto and to the use of the sd R K his hrs and ass discharged from the este tail of the sd I N and E his wife in her right and all or. estes tail remrs revns limitations and condons depending or expectant thereon subject nevss to the provo or agrt for redemption hnaft expsd *And* for the consons afd and for the more effectually conveying and assuring the sd hereds and preses unto and to the use of the sd R K his hrs and ass for ever subject nevss to the provo hnaft expsd the sd I N

Mortgage by Tenant in Tail.

Loan.

Agreement to consent.

Testatum.

Covenant to acknowledge deed.

(a) Where the protector gives his consent by a separate deed, say, *Whas* by a deed poll bearing date the day of under the hand and seal of (protector) of, &c. nominated protector of the settlement in and by the will of I H late of, &c. decl the sd (P) hath consented to the conveyance and assurance intended to be hby made to the sd R K of the sd messe, &c.

(b) As to the powers vested in tenant for life, see Obs. 3.

Mortgage by Tenant in Tail. for himself his hrs exs and ads and for the sd E his wife she hby consenting thereto doth hby covt, &c. with, &c. the sd R K his, &c. that she the sd E shall forthwith appear before, &c. and acknowledge these prests as her deed so that the same may be certified and entered of record in his Majesty's Court of Common Pleas at Westminster *Provided always* (proviso for redemption, see *Mortgages*) And from and immly after such paymt to be made as afd the sd R K shall and will at the request of the sd I N and E his wife or either of them their or either of their hrs exs or ads convey and assure the sd hereds and preses mentd to be hby bargained and sold with their and evy of their apts (a) to and for such uses estes and purps as they the sd (b) I N and E his wife shall at any time hrafr by any deed or deeds writing or writings duly exted by them the sd I N and E in the presence of two or more credible witnesses direct limit declare and appt and for want of and until such diron limitation and apptmt to the use of the sd I N and E his wife during the term of their natural lives and the life of the survor of them and from, &c. to the use of the hrs and ass of the sd I N for ever freed and discharged of and from all incumbs whatsr committed or done by him the sd R K his hrs or ass And the sd I N for himself his hrs, &c. doth hby covt, &c. with, &c. the sd R K his exs, &c. (to pay mortgage money) *Provided always* and it is hby decl'd, &c. that in case deflt shall happen to be made in, &c. (see *Mortgages*) And the sd R K his exs or ads shall by any writing under his or their hand or hands give notice to the sd I N or E his wife his or their hrs exs or ads or leave, &c. Then and in such case it shall and may be lful, &c. witht any furr consent of the sd I N and E his wife or their hrs exs or ads to make sale, &c. (subject nevss to the life este of the sd (P) if then subsisting) the sd messe, &c. hereds and preses hby bargd, &c. with their and evy of their rights members and apts in fee simple, &c. *Provided also* and it is hby decl'd, &c. that all acts, &c. to be made, &c. shall be valid, &c. witht any furr concurrence of the sd I N and E his wife their hrs, &c. And that the rects, &c. And it is hby furr agrd and decl'd by, &c. that until such sale, &c. the sd R K his hrs and ass shall, &c. And after such sale, &c. shall stand, &c. *Upon Trust, &c. (See Mortgage with Power of Sale)*

Proviso for redemption

Covenant to pay.

Power of sale.

Acts, &c. of mortgagee to be valid.

Declaration of trusts.

(a) As to this provision, see Obs. 1.

(b) Or, in the more concise and less ambiguous form, if it be so agreed, 'unto the sd E N her hrs and ass or as she or they or the psn or psns for the time being entitled to the equity of redemption of and in the sd mortgaged preses shall in that behalf order or direct free from all incumbs whatsr,' &c. (as *above*.)

And the sd I N for himself and for the sd E his wife and for their respive hrs exs and ads doth hby covt, &c. with, &c. the sd R K his hrs and ass in manner following that is to say That they the sd I N and E have or one of them bath in themselves himself or herself good right, &c. by these prests pursuant to the statute in that behalf made and provided to bargain sell and convey the sd messe, &c. hnbeft mentd to be bargained and sold with their apts unto the sd R K his hrs and ass in manner afd according to the true intent and meaning of these prests subject nevas and witht prejudice to the life este of the sd (P) And furr that from and after deft shall happen to be made of or in the paymt of the sd sum of £— and the int thereof contrary to the true intent and meaning of these prests it shall and may be lful for the sd R K his hrs and ass from and immly after the dece of the sd (P) and until such sale, &c. and from and immly after such sale for the purchaser, &c. peaceably, &c. witht any let, &c. of them the sd I N or E his wife their or either of their hrs exs ads or ass or any or. psn (a) And that free, &c. and freely, &c. acquitted, &c. or orwise by the sd I N and E his wife saved, &c. and indemnified of from, &c. all and all manner of former and or. gifts, &c. and all or. estes titles, &c. and incumbrances whatsr made, &c. (b) And moreover that if deft shall be made, &c. they the sd I N and E his wife and their hrs and all and evy or. psn or psns having, &c. any este (c) of in to or out of the sd messe, &c. shall and will, &c. at the request, &c. but at the costs chas and exps of the sd I N and E his wife their hrs exs and ads make, &c. (acts for further assurance) And lastly it is hby decl'd, &c. that until deft, &c. it shall and may be lful to and for the sd I N and E his wife and the hrs and ass of the sd I N peaceably, &c. (see *Mortgages, Gen. Prec.*) In Witness, &c.

Consent
by Pro-
tector.

Covenants
for title.

Good right
to convey.

Quiet en-
joyment for
mortgagee
after default

Free from
incum-
brances.

Further
assurance.

Quiet en-
joyment for mort-
gagor until
default.

Consent of the Protector.

Obs. As to the enrolment of this deed, see Pref. § 8.

Know all Men by these prests that I (*protector*) of, &c. protector under and by virtue of certain indres of lease and rele bearing date resp'y, &c. and purporting to be a settlement made on the marre then in contemplanation and shortly after solemnized betn me the sd (P)

(a) If there be any leases subsisting say, ('save and except the psns holding any leases in pursuance of the power granted to the sd (P) in and by the sd indre,' &c.)

(b) ('Save and except the leases so granted by the sd (P) as afd')

(c) ('Save and except the psns holding leases as afd.')

Consent by Protector. and E my now wife do hby in pursuance of the power vested in me as protector by the Statute for the Abolition of Fines and Recoveries give my full free absolute and unqualified consent to any assurance or disposition which (*tenant in tail*) eldest son and heir of me the sd (P) and the sd E my wife and tenant in tail in remr expectant upon the dece of me the sd (P) shall make at any time of any of the messes or tents lds or hereds comprised in the sd indre of settlement *In Witness, &c.*

Qualified Consent of a Protector.

Obs. As to the enrolment of this deed, see Pref. § 8.

To All to whom these Prests shall come (protector) of, &c. sendeth greeting Whas (recite deed or will giving a life estate to the protector with remainder to his children in tail male) *And whas* (recite intended marriage of the eldest son of the protector and agreement to settle certain estates) And in order to enable the sd (*tenant in tail*) to make such settlement in pursuance of the sd agreement he the sd (P) hath agrd to give his consent in manner hnafr mentd *Now know ye* that the sd (P) by virtue of the power to him given by, &c. doth give consent to the assurance and conveyance intended to be made by way of settlement of the lds and hereds situated, &c. (*parcels*) to the sevl uses upon the sevl trusts for the sevl intents and purps and with under and subject to the sevl powers provoes declons and agrmts as are hnbeft mentd *Provided nevss* and it is hby expssly decld to be the true intent and meaning of these prests that the consent hby given shall not extend nor be deemed to extend to any or. lds of which the sd (P) is seised as tenant for life nor to any or. uses trusts intents and purps than those which are hnbeft mentd *In Witness, &c.*

Relinquishment of Protectorship and Appointment of a New Protector.

Obs. As to the enrolment of this deed, see Pref. § 8.

To all, &c. A B of, &c. and C D (a) of, &c. protectors nominated in and by a certain indre of, &c. (or 'will') bearing date, &c. send greeting Whas (b) the sd A B is desirous of relinquishing the protectorship and by virtue

(a) If one of the protectors is dead, say ('*surviving protector*') one of the protectors nominated, &c.'

(b) If one of the protectors is dead, say, 'the sd A B departed this life on or about the, &c. and by virtue given to him the sd C D by, &c.' (as above.)

of the power given to them the sd A B and C D by the statute in that behalf made and provided they the sd A B and C D have nominated E F of, &c. in the place of the sd A B *Acknowledgment.* Now know ye That the sd A B doth hby relinquish and resign the office of protector and all the powers and authties given to him by the sd indre, &c. (or 'will') in that behalf And that they the sd A B and C D do hby nominate and appt the sd E F to act conjointly with the sd C D as protector to all intents and purps as fully and amply as the sd A B could or might have done if these prests had not been made In Witness, &c.

Memorandum to be indorsed or written at the Foot, or in the Margin of the Deed, to be acknowledged by married Women, under the 3 & 4 W. IV. c. 7, s. 84.

This deed marked with the letter B was this day produced before me (or 'us') and acknowledged by the therein named M the wife of R L to be her act and deed previous to which acknowledgment the sd M L was examined by me (or 'us') separately and apart from her husband touching her knowledge of the contents of the sd deed and her consent thereto and decl~~d~~*the same* to be freely and voluntarily executed by her.

Certificate of the taking such Acknowledgment to be written upon a separate Piece of Parchment, and signed by the Judge, Master in Chancery, or Commissioner.

These are to certify That on the day of in the year of 18 came before me the undersigned Sir Nicholas Conyngham Tindal Lord Chief Justice of the Court of Common Pleas (or 'before me Sir James Purk, Knt. one of the Justices of the Court of K. B. at Westmr' or 'before me the undersigned James William Farrer one of the Masters in Ordinary of the High Court of Chancery' or 'before us A B and C D two of the perpetual commissioners appointed for the borough of S for taking the acknowledgments of deeds by married women pursuant to an Act passed in the third and fourth years of the reign of king William the Fourth entitled 'An Act for the Abolition of Fines and Recoveries and for the substitution of more simple Modes of Assurance') appeared personally M the wife of R L and produced a certain indre marked A bearing date the day of 18 and made between (parties) And also a certain deed marked B bear-

Affidavit. ing date, &c. and made, &c. And acknowledged the same to be her acts and deeds And I (or 'we') do hby certify that the sd M L was at the time of acknowledging the sd deeds of full age and competent understanding and that she was examined apart from the sd R L touching her knowledge of the sd deeds and that she freely and voluntarily consented to the same (a)
(Signatures)

Form of the Affidavit verifying the Certificate of Acknowledgment.

Obs. This affidavit is directed, by the Rules of the Court of Common Pleas, of Hilary Term 1834, amending the Rules of Michaelmas Term 1833, (see *Appendix*) to be made in pursuance of the Act of Parliament, by some practising attorney or solicitor, and to be sworn before a judge of the Court of Common Pleas, or a commissioner appointed for the taking of affidavits in the said court.

In the Common Pleas

A B of, &c. in the co. of gent one of the attorneys or solicitors of, &c maketh oath and saith that he knows M the wife of R L in the certificate hereunto annexed mentd and that the acknowledgment therein mentd was made by the sd M L and the certificate signed by the judge (or, 'master' or A B and C D the commissioners in the sd certificate mentd') on the day and in the year therein mentd at in the county of in the presence of this deponent and that at the time of making such acknowledgment the sd M L was of full age and competent understanding and that the sd M L knew that the sd acknowledgment was intended to pass her estate in the preses respecting which such acknowledgment was made (b) And this deponent furr saith that previous to the sd M L (c) making the sd acknowledgment He this deponent inquired of the sd M L

(a) By the rules of the Court of Common Pleas, of M. T. 1833, there was added to the certificate a specification of the localities. 'And I (or 'we') do further certify that the sevl preses comprised in the sd in pt recited indres are situate in the sevl parishes or places following that is to say in the parish, &c.' By the rules of H. T. this specification is transferred to the affidavit, which see.

(b) When the acknowledgment is not taken by a judge or master, add, 'And this deponent furr saith that to the best of his deponent's knowledge and belief neither of the sd commissioners is (or, 'the sd A B' or, 'the sd C D is not') in any manner interested in the transaction giving occasion for such acknowledgment or concerned therein as attorney solicitor or agent or as clerk to any attorney solicitor or agent so interested or concerned'

(c) If more than one married woman, say, 'the sd M L or A C making this acknowledgment he this deponent enquired of each of them the sd M and A whether she, &c.'

whether she intended to give up her int in the estes in respect of which such acknowledgment was taken with having any provision made for her in lieu of or in return for or in consequence of her so giving up her int in such estes And that in answer to such inquiry the sd (a) M L decl'd that she did intend to give up her int in the sd estes witht having any provision made for or in consequence of her giving up such int of which declaration of the sd M L (b) the sd deponent has no reason to doubt the truth and verily believes the same to be true (c) And lastly this deponent saith that it appears by the deed acknowledged by the sd M L that the preses wherein she is stated to be interested are described to be in the parish or place (or parishes or places) of in the county or counties of, &c. (as the case may be)

FURTHER CHARGES.

Further Charge on Mortgaged Premises. (General Precedent.)

Obs. The same *ad valorem* duty as on a mortgage. See Stamp. Mortgages.

This Indre made, &c. Betn (mortgagor) of, &c. of the one pt and (mortgagee) of, &c. of the or. pt Whas, &c. (recite a mortgage for 99 yrs from mortgagor to mortgagee for securing £ — and int) And whas the sd sum of £ — still remains due and owing to the sd (mortgagee) upon the secty of the sd preses but all int for the same hath been pd to the day of the date of these prests And whas the sd (mortgagor) hath applied to and requested the sd (mortgagee) to lend and advance him the furr sum of £ — upon the same secty to which the sd (mortgagee) hath consented and agreed Now, &c. in conson of the sum of £ — of lful, &c. to the sd (mortgagor) in hand, &c. by the sd (mortgagee) at, &c. pd the rect, &c. He the sd (mortgagor) Hath charged and made liable and by, &c. Doth charge, &c. all and singr the sevl closes pieces or

Recitals
Mortgage still due, but all interest paid.
Of further loan.
Testatam.
Further charge.

(a) Or, 'each of them the sd M L and A C declared,' &c.

(b) Or, 'of each of them the sd M L and A C.'

(c) Or, 'decl'd that a provision was to be made for her in consequence of her giving up her int in such estes And this deponent furr saith that before her acknowledgment was so taken he was satisfied and does now verily believe that such provision has been made by deed or writing (or, 'that the terms thereof have been reduced into writing And that such deed or writing has been produced to the sd Judge (or, 'Master' or 'Commissioners')

Covenant
from mort-
gagor.

No redem-
ption until
payment of
£— and
£—

To pay
money now
lent.

And for fur-
ther assur-
ance in case
of default.

pcls of land heredit and preses comprised in and granted and demised by the sd in pt recited indre of day of 18 or intended so to be with their and evy of their appts with and to the paymt unto the sd (*mortgagee*) his exs ads and ass of the sd sum of £— now lent and advanced togr with lful int for the same over and above and in addition to the sd sum of £— and int so already due and owing thereon as afd And the sd (*mortgagor*) doth by these prests covt, &c. That the sevl closes pieces or pcls of lds heredit and preses shall not be redeemed and redeemable until payment to the sd (*mortgagee*) his exs ads or ass as well of the sd principal sum of £— and int thereon as of the sd principal sum of £— and int to grow due on the same And the sd (*mortgagor*) doth also hby for himself, &c. his hrs exs ads and ass, covt, &c. That he the sd (*mortgagor*) his hrs, &c. shall and will well, &c. (covt to pay the sum now lent, see *mortgage*) And furr that if deflt shall be made in paymt of the sd sum of £— and int or any pt thof at the day and time hnbefe mentd and apptd for the paymt thof He the sd (*mortgagor*) and his hrs and all or. pns claiming any este or int in the sd preses under or in trust for him or them shall and will at the request of the sd (*mortgagee*) his exs ads or ass make do and exte all furr acts and deeds for the better securing the repaymt to the sd (*mortgagee*) his exs ads and ass of the sd sum of £— and int and for the better and more effectually charging the heredit and preses herewith charged as by the sd (*mortgagee*) his exs ads or ass or his or their counsel in the law shall be reasibly devised or advised and required In Witness, &c.

GIFTS.

Definition.

§ 1. A gift is, properly, the transferring the property of a thing from one person to another, without a valuable consideration, and is, therefore, denominated a voluntary conveyance. It is equally said of moveable and immoveable things: a gift of land, signifies a conveyance or passing an estate in tail only, as a feoffment, is a conveyance in fee; Co.Litt. 384. The operative words are *do dedi*, I give, have given, and livery of seisin, is as necessary as in a feoffment, to render it effective; Watk. Prin. 173. 2 Comm. 316.

Operative words.

Gift of personalty.

2. A gift is also used as a mode of transferring personal property, and differs from a grant, and other modes of conveyance, principally in this, that the gift is always gratuitous. A gift of chattels may be made either in writing or by word of mouth, and if accompanied with delivery of possession, takes effect; but when there is no delivery of immediate possession, it is then not properly a gift, but a contract; and a man cannot be compelled to

perform it, but upon good and sufficient consideration. 2 Comm. 441.

3. A gift is, at this day, a suspicious species of conveyance, as being without what the law denominates, either a good or valuable consideration; by the 3 Hen. IV. c. 4, and 13 Eliz. c. 5, it is void as to those who were creditors of the donor at the time of its being made, but valid as to subsequent creditors.

4 Where lands are thus given or granted to another in tail, the *tutatus* part of the deed runs thus: *Witnesseth* that the sd A B hath given and granted and by these preste *doth* give and grant unto the sd C D *All that, &c. To Have and Hold, &c.* unto the sd C D and the heirs male of his body on the body of E D his wife begotten. Shep. Prec. 38. Touchs. 227.

Deed of Gift of Personal Property.

Obs. 1. This requires delivery of possession in the same manner as in a bargain and sale of goods. (See Pref. § 2; also *Bargain and Sale*.)

Know all Men by these Prests That I, A B of, &c. in consoon of the natural love and affection which I have and bear unto my beloved brother C B and also for divers good causes and consons me the sd A B heretunto moving have given and granted and by these preste do give unto the sd C B all and singr my goods chattels and effects, &c. To have hold rece take and enjoy all and singr the sd goods chattels and effects, &c. unto the sd C B his exs ads and ass to the only proper use and bent of the sd C B his exs ads and ass for ever And I the sd A B all and singr the sd goods chattels personal este and effects to the sd C B his exs ads and ass agst me the sd A B my exs and ads and all and evy or. psn or psns shall and will warrant and for ever defend

Habendum.

Clause of warranty.

In Witness, &c.

GRANTS.

§ 1. A grant is, in the common law, a conveyance in writing of incorporeal hereditaments not lying in livery, and which cannot pass by word only, as annuities, advowsons, commons, rents, reversions, &c. Co. Litt. 172. These, therefore, pass by delivery of the deed. Definition.

2. A deed of grant, differs but little from a feoffment, except in its subject matter, for the operative word used therein, is 'grant;' other words are used, but they are at least superfluous. The words 'bargain and sell' will have no operation, unless the deed be enrolled. The words 'release and confirm' can have no operation, unless the releasee and confirmer have a previous estate on which they can operate. Operative word.

Advowson 3. Formerly, the attornment of the tenant was necessary in some grants and conveyances, but by the 4 & 5 Anne, such grants and conveyances are rendered effectual without attornment.

Grant of an Advowson.

How it
passes.

Obs. An advowson is an incorporeal hereditament, Co. Litt. 17, a; and, therefore, if it be in gross, it passes only by grant by deed, and not by livery; Co. Litt. 332, a.—338, b; but if the advowson be appendant, by the grant of the manor to which it is appendant, the advowson passes. *Long's and Heming's case*, 1 Leon. 208. He who has an advowson in fee, may alien the same in fee for life or years; or may grant the next presentation, or any number of future presentations; *Elvis v. Archbishop of York*, Hob. 322; but a grant cannot be made by a subject, after the church is become void; *Giba*. 758. *Stephens v. Wall*. Dy. 283, a. *Wolferstan v. Bishop of Lincoln*, 2 Wils. 197; and if an advowson be sold while the church is void, the next presentation does not pass. *Leak v. Bishop of Coventry*; Cro. Eliz. 811. Although the grant of the advowson itself is valid; *Greenwood v. Bishop of Lincoln*, 1 Marsh. 350; an advowson may be aliened by way of mortgage; but if the church becomes vacant before the mortgage is redeemed or a bill of foreclosure be obtained, the mortgagee cannot present; *Amhurst v. Dawling*; 2 Vern. 401; *Ivory v. Cox*, Prec. Cha. 71. The rule that the grantor of an advowson may covenant to present such person as the grantee shall nominate; *Plowd.* 529. *Wats.* 85; does not, as it seems, apply to a mortgage, *Mackenzie v. Robinson*, 3 Atk. 559. As to bonds of resignation, see *Bonds*, Vol. i. p. 274; also *Presentations*.

Know all Men by these Prests That I, A B of, &c. esq. patron of the rectory or parish church of, &c. in the diocese of for divers good causes and consons me hereunto moving Have given granted and sold (a) and by, &c. Doth give, &c. for myself and my hrs give unto C D of, &c. his hrs and ass All that the patronage advowson donation nomination presentation and right of patronage of and to the parsonage rectory and parish church of, &c. afd with full power and authty to and for the sd C D his hrs and ass to present a fit person to the sd rectory or parish church whensoever the same shall first and next happen to become void by the death resignation or deprivation of (incumbent) the present incumbent thof or orwise howsr And to do and perform all and evy act and thing acts and things whatsr in order to the same in as full large and ample manner to all intents and purps as I the sd A B or my hrs inay might or hereaftr could have done if this present grant had not been made freed and discharged or orwise by me the sd A B and my hrs well and sufficiently saved

(a) If the conveyance is intended to be by Bargain and Sale, to be enrolled, which is to be preferred, say, 'granted bargained and sold'; and if by Lease and Release, say, 'granted bargained aliened and released.' Pref. § 2.

harmless and kept indemnified of and from all and all manner of former or or. gifts grants or incumbrs whatevr whby to defeat or make void the present grant had made done or suffered by me the sd A B my hrs or ass or by any or. pson or psons whomsr lfully claiming by from or under me or any of them *In Witness, &c.* *Annuity.*

Grant of an Annuity in lieu of Dower.

Obs. For other precedents of grants of an annuity, see *Annuity.*

This Indre made, &c. Betn A B nephew and hr at law of H D late of, &c. decd of the one pt and C D of, &c. widow and relict of the sd H D who died intestate on or about the day of *Whereas* the sd H D was in his lifetime and during his marre with the sd C D seised in fee simple to him and his hrs of and in certain messes lands tents and hereditis situate, &c. and having died seised thereof the same descended to the sd A B his nephew, subject to the dower or thirds of the sd C D into or out of the same *And whas* it hath been agrd between the sd A B and C D that the sd C D and her ass shall during her life in lieu of dower rece an annty or clear yrly rent charge or sum of £ — as hnaft is mentd *Now this Indre witnesseth* That for the consons as afd and also in conson of 10s. of, &c. to the sd A B by the sd C D He the sd A B *Hath* given and granted and by, &c. *Doth* give, &c. unto the sd C D and her ass *One* annty, &c. to be issuing out of *all*, &c. situate, &c. late in the posson of the sd H D decd his under-tenants, &c. *To Have Hold* rece perceive and take the sd annuity or annual sum of £ — unto the sd C D and her ass from the day of now last past for and during the natural life of the sd C D free and clear of and from all taxes and witht any deduction whatevr in lieu of all dower or thirds to which she the sd C D is can or shall be entitled by two equal half yrly paymts that is to say £ — on, &c. and so in proportion to the time the sd C D shall happen to live after each of the sd days of paymt before another paymt shall become due the first half yrly paymt thof to begin on the day of now next ensuing *And* if it shall so happen, &c. (powers of distress and entry, see *Annuity*) *And* the sd A B for himself, &c. (covt to pay annty) *And* that he the sd A B and his hrs and all or. psons whomsr claiming by from through under or in trust for him them or any of them shall and will from time to time and at all times hraft at the rease request of the sd C D but at the jt and equal costs and chas of the sd A B and C D their respcive hrs exs ads or ass during her natural life

*Recital of
seisin.*

*Agreement
to grant
annuity.*

Testatum.

Habendum.

*Powers of
distress, &c.*

*Covenant
to pay.*

License to use a Patent. do and exte all and evy such furr and or. Iful and rease acts deeds grants conveyances and assurances in the law whatsr for the furr better more perfectly and absolutely granting assuring and confirming the sd annnty, &c. of £ — to the sd C D and her ass during her natural life in lieu of her dower or, &c. as she the sd C D or her ass or her or their counsel shall Ifully and reasy advise or require so as for the doing thof no psn be compelled or compellable to go or travel from his her or their usual place of abode And the sd C D for herself her exs ads or ass doth hby covt and promise with and to the sd A B his hrs and ass that she the sd C D and her ass during her natural life upon due and punctual paymt of the sd annnty or annual sum of £ — witht any deduction or abatement whatr at the times and in manner afd according to the true intent and meaning of these prests shall and will rece and accept of the same in lieu of all dower or thirds or right or title of dower at law or in equity which she has or may can or shall have into or out of the real estes of her sd late husband decd which on his death descended to the sd A B as afd and which she doth hby accordingly remise release and for ever quit claim unto him the sd A B his hrs and ass *In Witness, &c.*

Covenant from grantee to accept annuity in lieu of dower.

Grant of a License to use a Patent.

Recital of letters patent. *This Indre made, &c. Betn (patentee) of, &c. of the one pt and (grantee) of, &c. of the or. pt Whas his late Maj. King by his letters patent under the Gt Seal of his United Kingdom of G. B. and I. bearing date at Westmr, &c. did give and grant unto the sd (P) his exs ads and ass his special license for the sole making using exercising and vending within Engld and W. and the town of Berwick upon Tweed his invention of a new floating mill or engine worked by tides and currents of water for grinding all sorts of grain and various or. purps for the term of yrs from the date of*

Contract for purchase of license. *And whas the sd (G) hath contracted and agrd with the sd (P) for the absolute purchase of the bent of the sd letters patent so far as the same relate to or concern the right of making using exercising and vending the sd mills in the cos of at or for the price or sum of £ — Now this Indre Witnesseth That in conson of the sum of £ — of, &c. to the sd (P) in hand, &c. by the sd (G) at, &c. the rect, &c. He the sd (P) Hath granted bargained and sold and by, &c. Doth grant, &c. unto the sd (G) his exs ads and ass that he the sd (G) and the psn or*

Testatum.

psns from time to time to be authorized and licensed by him or them in that behalf shall have the full bent and the sole and exclusive power and authty of making using exercising and vending the sd invention of the sd (P) of a floating mill or engine to be worked by tides or currents of water for grinding all sorts of grain and various or. purps as relates to or concerns all or. mills and engines made or intended to be made or constructed upon the principles of the sd invention and which henceforth during the residue of the sd term of yrs shall be erected set up or used within any pt of the co. of And also all gains prfts and advantages which shall arise from the powers and authties or int hby given and granted to the sd (G) his hrs and ass (a) *To Have* hold rece and enjoy the sd licenses liberties privileges powers authties ints advantages and all and singr or. the preses hby granted or orwise assured or intended so to be and evy of them unto the sd (G) his exs ads and ass henceforth for and during all the residue of the sd term of yrs now to come and unexpired And in as full large and beneficial a manner to all intents and purps as the sd (P) can or legally may grant the same And the sd (P) for himself his hrs exs ads and ass doth hby covt, &c. for and notwithstanding any act, (b) &c. (see *Release*) that he hath not heretofore at any time or times made done exted or willingly suffered And that he will not at any time hrafr make do or willingly suffer any act deed or thing whatsr whby or by reason or means whof the sd letters patent are or shall become void or whby or by reason or means whereof the right of the sd (G) his exs ads or ass or the psn or psns licensed or authorized by him to use exercise and enjoy the sd liberties privileges powers and authties hby granted to him his exs ads and ass shall or may be defeated determined or avoided and that his exs ads or ass or either of them shall not nor will during the remr of the sd term of yrs use or authorize to be used by any psn or psns (other than the sd (G) his exs ads and ass and the psn or psns licensed or authorized by him or them) any mills or engines upon the principles of the sd invention within the sd cos of And that he the sd (P) his exs ads and ass shall and will authorize and empower the sd (G) his exs ads and ass to commence and prosecute any action or actions suit or suits either

*License to
Use a
Patent.*

Habendum.

*Covenant
from ven-
dor that he
has not in-
cumbered
and will do
no act to
vacate, &c.
letters pa-
tent.*

*Authorize
purchaser
to com-
mence ac-
tions, &c.*

(a) The clause of 'all the este,' &c. was omitted, as not proper to be inserted here.

(b) As to the necessity of qualified covenants, see *Assignments*, Vol. i. p. 182.

*Mine.*and will do
further
acts, &c.Covenant
from pur-
chaserto indem-
nify vendor
against
costs of
suit.And will do
no act to
defeat ven-
dor's re-
maining
rights.

at law or in equity for any breach or infringement of the privileges granted by the sd letters patent as far as relates to any mills to be erected upon the principles of the sd invention which shall be used within the sd cos of

And also that he the sd (P) his, &c. shall and will at any time hereafter, &c. do, &c. (see *Release*) for further better more perfectly and absolutely granting and assuring unto the sd (G) his, &c. the liberties privileges powers and licenses hereby granted as by the sd (G) his exs, &c. or his or their counsel in the law shall be reasonably advised and required And the sd (G) doth hereby for himself, &c. covenant, &c. that he the sd (G) his exs ads and ass or some or one of them shall and will from time to time and at all times hereafter at his and their own costs and charges well and sufficiently save defend and keep harmless and indemnified the sd (P) his exs, &c. and his and their lands tenants goods chattels and effects of from and against all losses costs charges and damages which the sd (P) his exs ads or ass or any of them respectively shall or may bear sustain suffer expend or be put unto by reason of any suit or suits at law or in equity which shall be brought or prosecuted in his or their name or names respectively under or by virtue of all or any of the authorities hereby given or covenanted to be given And further that he the sd (G) his exs ads or ass shall not nor will at any time hereafter make do commit execute or willingly permit or suffer any act deed matter or thing whatsoever whereby or by reason or means whosoever the sd letters patent shall become void or whereby or by reason or means whosoever the remaining rights and intents of the sd (P) his exs ads and ass to use exercise and enjoy the sd letters patent and the liberties, &c. granted by the same shall or may be defeated determined or avoided In Witness, &c.

Grant of a Tin Mine in Cornwall. (u)

This Indre made, &c. Betw A B of, &c. C D of, &c. F H of, &c. of the one pt and B C of, &c. of the or. pt

Testatum. *Witnesseth That the sd A B, &c. for and in conson of the payments covenants and agreements hereafter mentioned and contained on the pt and behalf of the sd B C his exs ads partners and ass to be perfectly fulfilled and performed Have granted set and let and by, &c. Do grant, &c. unto the sd B C full power license and authority to work dig and search for tin in the whole of all those tin bounds situate, &c. To*

Habendum. *Have Hold and enjoy the sd full power license and authority to work dig and search for tin in the sd tin bounds and parts thereof before mentioned according to the cus-*

(a) See Jones's Attorney's Pocket-Book, Coventry's Edit.

sdm of the stanneries of Cornwall by and under the usual and customary paymt and manner of paymt of toll tin and farm dish and tin dues He the sd B C his exs, &c. giving at least twenty-four hours' notice to the agents or agent or toller of the sd A B, &c. for taking the toll tin at the wash previous to the carrying of any parcel of tin or tin stuff that may be broken or got out of the sd bounds or any of them to the smelting-house and permitting and suffering and giving free liberty to the agents or agent or toller for the sd tin bounds at all times to go down into any pt of the bottoms when and as often as they shall think proper to divide admeasure or inspect all and evy the mine or mines within the sd tin bounds and the workings therein *Provided also* that if the sd A B, &c. shall at any time after the expiration of five yrs from the date hereof think fit to take out the farm in the stone Then the sd B C his exs, &c. shall deliver out the one-ninth pt for farm in the stone after the toll dues shall have been pd off *All* the tin and tin stuff that they shall break and raise within the limits of the sd tin bounds hby sold and granted the agent or toller of the sd A B, &c. giving one month's notice of such their intention of taking out the sd farm in the stone *And* the sd B C for himself his exs ads ptnrs coadventurers and ass doth covt, &c. with, &c. the sd A B, &c. their exs ads and ass in manner following that is to say That he the sd B C his exs some or one of them shall and will erect and build in a good sound and workmanlike manner within some pt of the afd tin bounds called N — bounds one steam or fire engine with the necessary pumps and materials for the working thereof of sufficient power and force to draw out and unwater the bottoms of the mine meant and intended to be carried on and adventured in the afd sevl bounds and that the same steam or fire engine shall be completed and set to work within eighteen months from the date hereof *Provided always* nevss and it is the true intent and meaning of these prests and of the pties to the same that if the sd B C his exs, &c. shall neglect or refuse to erect and build as afd the sd steam or fire engine with the necessary pumps and materials for working the sd mine of sufficient power and force to draw out and unwater the bottoms of the sd mine so as afd meant and intended to be carried on and adventured in the afd sevl tin bounds and preses hby granted Then and in such case the present grant or set and evy article and covt thereof shall absolutely cease determine and be utterly void to all intents and purps whater any

*Mine.**Proviso.*Covenants
from lessee.To build
steam en-
gine.Proviso for
making
void the
grant.

Next Presentation. thing herein contd to the contrary notwithstanding *In witness, &c.*

Memorial Indorsed on the foregoing Grant.

Memorial—It was agrd by and betn the within pties at and before the exon of these prests that instead of the usual and customary paymt of toll-tin farm-dish and tin dues within mentd He the sd B C his exs, &c. shall pay and lay out one-twentieth pt dish or doll for the toll of tin and one-eighteenth pt dish or doll for farm dues for the first five yrs after the water of the mine shall be in fork unless the costs of working and carrying on the same shall be fully repd and refunded to the adventurer before the end of the sd five yrs in which case it is agrd that the usual and customary paymt of one-fifteenth pt for toll and one-twelfth for farm dues shall be pd and laid out for the sd A B, &c. *Provided always* that one full fifteenth pt being the toll of the leavings of the tin and tin stuff broken in and raised out of the sd tin bounds in the duchy manor of S — shall be left for the sd A B, &c. at the stamping mills or smelting-house

Grant by Patron of a Rectory of the Next Presentation.

Obs. 1. This may operate as a bargain and sale without enrolment, as the next presentation is only a chattel interest.

Obs. 2. As to when the grant of a next presentation, or the contract for such a grant, is void, see *Agreement for the Sale of an Advowson*, Vol. i. 57.

Grant.

This Indre made, &c. Betn (patron) of, &c. esq. of the one pt and (grantee) of, &c. of the or. pt Whas the sd (patron) intends shortly to leave the kingdom of G. B. and to go to the island of to take upon him the government of that island which his Maj. has been pleased to confer on him Now this Indre Witnesseth That in conson of the sum of 5s. of, &c. to him the sd (P) by the sd (G) at, &c. paid the rect, &c. and for divers or. good causes and consons him the sd (P) hereunto moving He the sd (P) Hath granted bargained and sold and by, &c. Doth grant, &c. unto the sd (G) his exs, &c. the next presentation donation collation and free disposition of the rectory of the parish church of and when the same shall next become void by the death resignation cession or deprivation of the Rev. R S clk the present incumbent or orwise To Have and to Hold the same unto the sd (G) his exs, &c. upon the trust following that is to say in case the sd (P) shall at the next vacancy or avoidance of the sd church be ab-

sent from G. B. then the sd (G) his exs or ads shall and may present such pson duly qualified according to law to the bishop of the diocese or ordinary of the place in order to his being instituted and inducted into the rectory of the sd church as he the sd (G) his exs or ads shall think proper *Provided nevs* that in case at the next vacancy or avoidance of the sd church the sd (P) shall be either resident in G. B. or shall be then dead then and in either of the sd cases these prests and every thing herein contd shall cease determine and be absolutely void *In Witness, &c.*

Fee-Farm Rent.

Grant of a Fee-Farm Rent.

Obs. 1. A fee farm rent is a rent reserved upon a grant in fee, Fitz. N. B. 210, provided it be not less than one-fourth of the value of the lands. If it be of less value, it is a rent-charge, Co. Litt. 143. This may be conveyed by grant, bargain and sale enrolled, and lease and release; or to the *terre-tenant* by release only; but before the 4 and 5 Ann. c. 16, the rent by grant only would not pass, *Taylor v. Fale*, Cro. Eliz.

Definition.

How conveyed.

2. It seems that distress is not incident to a fee-farm rent, unless it comes within the 4 G. II. c. 28, *Bradbury v. Wright*, Doug. 624; to obviate all questions, therefore, it is prudent to insert the usual clauses of entry and distress, as in the case of an annuity or rent-charge, (see *Annuity*, Vol. i. 59.)

Distress.

3. On a grant of a fee-farm rent without any deduction, defalcation, or abatement whatsoever, the grantee is entitled to receive the full rent without deducting the land-tax, *Bradbury v. Wright*, Douglas, 624.

Taxes.

This Indre made, &c. Betn (vndor) of, &c. of the one pt and (purchaser) of, &c. of the or. pt Whas by an indre bearing date, &c. and made betn (grantor) therein described of the one pt and the sd (V) of the or. pt For the consons therein mentd the sd (G) did give grant and confirm unto the sd (V) his hrs and ass a clear yrly rent-charge or annual sum of £ — witht any deduction defalcation or abatement on any acct whatsr(a) to be issuing or paye out of or charged upon All that, &c. And whas the sd (P) hath contracted with the sd (V) for the absolute purchase of the sd clear yrly rent-charge or sum at or for the price or sum of £ — Now this Indre Witnesseth That in pursuance of the sd agrt and in consn of the sum of £ — by the sd (P) to the sd (V) in, &c. at, &c. pd the rect, &c. He the sd (V) Hath given granted and confirmed and by, &c. Doth give, &c. unto the sd (P) his hrs and ass All that clear yrly rent-charge, &c. of £ — so granted or assured by the sd hnbefe in pt recited indre with all and evy bent and advantage of distress and entry and all or.

Testatum.

(a) See Obs. 3.

Reversion powers and remedies reserved to and vested in him the sd (V) And all the este, &c. of him the sd (V) of in to and out of the sd yrly rent-charge, &c. *To Have*, &c. the sd yrly rent-charge or annual sum of £ — and all and singr or. the preses hby granted or orwise assured or intended so to be unto the sd (P) his hrs and ass And the sd (V) for himself, &c. (Covenants for title, see *Release*) *In Witness*, &c.

Grant of a Reversion, or Remainder.

How conveyed.

Obs. 1. A reversion, or vested remainder, may be conveyed by grant, bargain and sale enrolled, or lease and release. A grant is sufficient in ordinary cases, particularly where, as in this case, the tenant for life having the reversion in himself is the vendor, or a tenant for life is the purchaser of a remainder, or reversion. In some cases a bargain and sale, or lease and release, may be the preferable mode of assurance, as a grant passes the reversion or remainder only, exclusive of the possession, and does not furnish evidence that there was a previous existing particular estate, 2 Prest. Conv. 235, 1 Bart. Prec. 342, n. 2.

Contingent remainder.

2. Formerly a contingent remainder could not be passed or transferred by a conveyance at law, before the contingency happened, otherwise than by estoppel, by fine, or by a common recovery; *Weale v. Lower*, Pollexf. 54; *Vick v. Edwards*, 3 P. Wms. 372; 1 Prest. Conv. 301; but since the abolition of fines and recoveries, it is presumed that a contingent remainder may be conveyed in the same manner as a vested remainder.

Recital of settlement creating a life estate.

This Indre made, &c. Betn (vendor) of, &c. of the one pt and (purchaser) of, &c. of the or. pt *Whas* by indres bearing date, &c. and made betn, &c. All those messes, &c. were conveyed and now stand limited and assured to the sd (V) during the term of his natural life with remr to the use of the sd, (trustees) their exs, &c. for 500 yrs witht impeachmt of waste *In Trust* for raising portions for the daurs and younger sons of the sd marre and after the expiration or sooner determination of such term and subject thereto to the use of the first and other sons of the body of the sd (V) in tail male and for deft of such issue to the use of the sd (V) his hrs and ass for ever *And whas* there is at present no issue of the sd marre and the sd (P) hath contracted with the sd (V) for the absolute purchase of the reversion of him the sd (V) in fee simple of and in the sd messe, &c. to take effect upon the dece of him the sd (V) and failure of issue of his body as afd at or for the price of £ — *Now this Indre Witnesseth* That in conson of the sd sum of £ — by the sd (P) to the sd (V) in hand, &c. pd the rect, &c. He the sd (V) *Hath* granted sold (a) and confirmed and by, &c. *Doth* grant, &c. unto

Contract for purchase of reversion.

Testatum.

(a) As to the use of other words, see Pref. § 2.

the sd (P) his hrs and ass *All that* (a) the revn of him the sd (V) in fee simple expectant and to take effect in posson on the dece of him the sd (V) and upon and after the end expiration or or. sooner determination of the sd term of 500 yrs and upon and after failure of issue male of the sd (V) of and in all that messe, &c. And all the este, &c. *To Have and to Hold* the sd revn in fee simple by these prests granted or expssd or intended so to be expectant (b) and to take effect in posson as afd of and in the sd messe, &c. with their and evy of their rights members and apts unto the sd (P) his hrs and ass to the only proper use of him the sd (P) his hrs and ass for ever And the sd (V) for himself, &c. (common covenants for title, see *Release*) *In Witness*, &c.

Tithes.

Grant of Tithes from Trustees under a Deed of Trust for Sale from Tenant for Life and Remainder-man in Fee Simple.

This Indre made, &c. Betn (vendors) of, &c. trustees named by, &c. for the sale of the tithes and hereditas hnaft described of the first pt (tenant for life) of, &c. and (remainder-man) eldest son and heir of the sd (T) of the second pt and (purchaser) of, &c. of the third pt *Whas* by an indre of apptmt bearing date the day of and made betn the sd (T) and (R) of the first pt H P and S P his daur now the wife of the sd (R) of the second pt and the sd (trustees for sale) of the third pt For the consons therein mentd the tithes tenths and hereditas hnaft described and mentd to be hby granted with the apts were (togr with or. hereditas) limited and appted by the sd (T) and (R) to the use of the sd (trustees) their hrs and ass for ever *Upon Trust* that they the sd (trustees) should at such time as they should think fit with the consent in writing of them the sd (T) and (R) absolutely sell and dispose of the sd hereditas and preses thby appted with their rights members and appts either by public auction or private contract and either altogether or in pels to any psn or psns willing to become the purchaser or purchasers thereof for such price or prices as to the sd (trustees) should seem proper *In Trust* to apply and dispose of the money therefrom arising in manner and for the purps thereinmentd And it is thby decld that the rects of the sd (trustees) for any

Recital of deed of trust for sale.

Contract.

(a) If it is a remainder say, '*All that* the remr of him the sd (V) in fee simple expectant to take effect in posson on the dece of the sd (tenant for life).

(b) If there is a dower trustee for purchaser, make him a party of the fourth part. See *Dower*.

- Tithes.** sums of money paye to them under or by virtue of the now reciting indenture should be sufficient and effectual discharges for the same or so much thereof as in such rectes should be expsd to be recd and that the psn or psns to whom the same should be given his her or their exs ads or ass should not aftwds be accountable for the loss misapplication or non-application of the money therein mentd to be recd *And whas the sd (trustees)* have in pursuance of the trusts reposed in them as afd with the consent and approbation of the sd (T) and (R) signified by their being pties to and exting these prests contracted and agrd with the sd (P) for the sale to him of the sd tithes and hereds hnaft parlarly described and mentioned to be hby granted being pt and pcl of the sd hereds and preses comprised in the sd in pt recited indre of apptmt at or for the price or sum of £ — *Now this Indre Witnesseth* That in pursuance of this agrt and in conson of the sum of £ — to the sd (trustees) in, &c. by the sd (P) at, &c. pd at the request and by the direction of the sd (T) and (R) signified as afd to be by them the sd (trustees) applied and disposed pursuant and according to the trusts and directions of the sd in pt recited indre of apptmt of the rect of which sum and that the same is in full for the conson money for the purchase of, &c. they the sd (trustees) do hby acknge and of and from the same do acquit rele and discharge the sd (P) his hrs and ass for ever And also in conson of 10s. a piece to each of them the sd (T) and (R) the rect, &c. they the sd (trustees) at the request and by the direction of the sd (T) and (R) as afd *Have* and each of them *Hath* according to his este right and int and not furr or orwise granted (a) bargained and sold and by, &c. *Do* and each of them *Doth* grant and they the sd (T) and (R) *Have* and each of them *Hath* granted bargained sold and confirmed and by, &c. *Do*, &c. grant, &c. unto the sd (P) his hrs and ass *All those* the tithes or tenths of corn and grain and also all or. the tithes or tenths of what nature or kind soever of them the sd (T) &c. evy or any of them yrly or orwise coming growing increasing or arising from by and out of *All those* farms lds, &c. togr with all and singr the prfts portions pensions oblations obventions and all or. appts whatar to the sd tithes tenths and hereds hby granted or mentd or intended so to be belonging or in any wise appertaining And the revn and revns remr and remrs rents issues and prfts of the same tithes and hereds or any pt thereof
- Contract for sale.**
- Testatum.**
- Grant.**

(a) As to the use of this word by trustees, see *Purchase Deeds*, Pref. §. 5.

To Have and to Hold the sd tithes tenths heredit and all and singr or the preses hby granted or mentioned or intended so to be with the apts unto the sd (P) his hrs and ass (a) *And* the sd (trustees) for themselves sevl and for their sevl and respive hrs exs and ads and their sevl and respive acts deeds and defaults do hby covt, &c. with, &c. the sd (P) his hrs and ass that (they have done no act to incumber) *And* the sd (T) doth hby for himself his hrs exs and ads and as far as relates to the este which he had lately in the sd tithes and heredit hby granted being an estate for his life and the acts deeds and defaults relating to the same este for life *And* the sd (R) doth hby for himself and as far as relates to the este and interest which he lately had in the same tithes heredit and preses being an este in remr in fee simple expectant on the decease of the sd (T) and to the este of inhance of him, &c. covt promise and agree with and to the sd (P) his hrs and ass in manner following that is to say That for and notwithstanding any act, &c. made, &c. by them the sd (T) and (R) or either of them they are lfully, &c. seised, &c. of their respive estates of and in the sd tithes, &c. witht, &c. (see *Release*) *And* that for, &c. they the sd (T) and (R) or one of them have or hath good right, &c. (to convey) *And* that it shall be lful, &c. (quiet enjoyment) *And* that free, &c. (from incumbrances) *And furr* that they the sd (T) and (R) their psn, &c. and all and evy or. psn, &c. shall, &c. make, &c. (acts for further assurance, see *Release*)

In Witness, &c.

Way.

Covenant
from
trustees.

Covenants
for title.

Grant of a Way or Road, (Variations where it is a Grant of a Common of Pasture.)

Obs. 1. A right of way, or of common and of other incorporeal hereditaments, may be claimed by prescription, Co. Litt. 113: and formerly, where there was any proof of the commencement or origin of the right within the time of legal memory, that is, since the reign of Rich. I. it could not be claimed by prescription; but, for the purpose of quieting possession, courts have presumed a grant after enjoyment for a length of time; *Eldridge v. Knott*, Cowp. 215; *Biddulph v. Ather*, 2 Wils. 23; and, by later decisions, twenty years' uninterrupted enjoyment unexplained and uncontradicted has been held sufficient to raise a presumption of a prior grant; *Bealy v. Shaw*, 6 E. 208; *Moore v. Rawson*, 3 B. and C. 332. Now by 2 and 3 W. IV. c. 71, s. 1, no claim to a right of common can be defeated after thirty years uninterrupted enjoyment, by merely shewing the time when the right was first enjoyed prior to that period, nor (by s. 2) to a right of way after twenty years' enjoyment.

Prescrip-
tion.
At common
law.

By Statute.

2. A right of way or of common, like other incorporeal hereditaments, lies not in livery but in grant, *Hewlins v. Shippam*, 5 B.

Right of
way, &c.
how con-
veyed.

(a) As to the variations where there is a dower trustee, or a declaration to bar dower is required, see *Dower*.

Way.

and C. 229; and a covenant that another shall have and use a way amounts to a grant; *Holmes v. Seller*, 5 Lev. 305. So where a man claims common in gross for a certain number of cattle, or the sole pasture of certain herbage, he may license a stranger to put his cattle in, 1 E. 3. 1. 11 H. 6. 22. 2 Lev. 327. But no freehold interest (nor it should seem even chattel interest) in such incorporeal hereditaments can be created and passed except by deed, *Hewlins v. Shippam*, 5 B. and C. 229; and a licence to a stranger to use a common, being in effect a grant of the common, must be by deed; *Hoskins v. Robins*, 2 Saund. 328, n. 12. Yet a parol licence to stack hay on a close, walk in a park, or enjoy any other privilege on land, is good, and is not countermandable after it has been acted upon at the expense of the grantee, only while it remains executory; *Winter v. Brischwell*, 8 E. 510; *Liggins v. Inge*, 7 Bing. 694.

3. The grantee of a way having the use of it, is bound to repair it, *Pomfret v. Ricraft*, 1 Saund. 321; *Taylor v. Whitehead*, Dougl. 221; it is prudent, however, to obviate all questions by inserting a covenant to repair.

This Indre made Betw A B of, &c. of the one pt and C D of, &c. of the or. pt Witnesseth That in conson of s. by the sd C D to the sd A B at, &c. pd and also of d. in the year to be pd to the sd A B his hrs and ass He the sd A B Hath granted and confirmed unto the sd C D his hrs and ass (a) a (b) free and convenient way as well a horseway as a footway as also for carts waggons and all other carriages whater in through over and along All that piece or pcl of ld or grd leading from called and lying betw of the breadth as the same is more particularly delineated in a plan thereof drawn in the margin of these prests with full and free liberty to make and lay causeways or otherwise to repair and amend the same when and as often as there shall be occasion togr with full and free license for the sd C D his hrs and ass (or 'exs ads and ass') from time to time and at all times hrafr(c) by all or any of the carriages as asfd to lead and carry stone wood timber iron brick tiles gravel or any or. thing or things whater in through over, &c. yielding and paying evy yr henceforth(c) and for ever the yrly fee-farm rent of s. on, &c. if demanded And the sd C D for himself, &c. doth hby covt, &c. with, &c. the sd A B that he the sd C D his hrs and ass shall, &c. at his and their own proper costs, &c. repair amend and keep repaired and amended the sd road and way in a substantial manner, &c. In Witness, &c.

(a) If only for a term of years, 'unto the sd C D his exs ads and ass.'

(b) If it is the grant of a common, say, 'All that the common of pasture and right title advantage and privilege of and to common of pasture and feeding of 300 sheep of him the sd (V) of in to and upon the commonable lands, &c. and all and all manner of privileges appendages and apts whater in any wise thereunto belonging To Have Hold and enjoy the sd common, &c. yielding, &c.'

(c) Or, 'During the continuance of the sd term.'

INDEMNITIES.

Obs. 1. An indemnity, may be given for various purposes, and in various ways. Most commonly, it is inserted in other deeds, in the form of a covenant to indemnify. (See *Index*.) As a separate deed, it may either be by bond, (see *Bonds of Indemnity*, Vol. i. p. 249,) or by covenant, with a grant of powers of distress and entry; (see *Covenants*, Vol. ii. p. 4,) or, where it is to indemnify against a rent-charge, it may be by granting a charge on other lands equal in amount to the original charge, so as to exonerate the estate intended to be parted. This last mode has been adopted in modern practice, and it has been held to be a sufficient security; *Casamajor v. Strobe*, 2 Swanst. 347. S. C. 1 Jac. 630; but it does not appear to be altogether free from objection, or to afford much, if any, additional security to that which is given by the ordinary powers of distress and entry.

Indemnity against a Rent-Charge by a Grant of Power of Distress.

This Indre made, &c. Betn A B of, &c. of the one pt and C D of, &c. of the or. pt Whas by indres of lease and rele the lease bearing date resply the day before the release and the release bearing even date with these prests and made betn, &c. All that messe, &c. situate, &c. being pt and pcl of a certain farm lds, &c. called, &c. were granted and released to the sd C D his hrs and ass for ever And whas the whole of the sd farm is subject to and charged with the paymt of an annty or yrly rent charge called gift paye to the poor of the parish of And whas upon the treaty for the sd purchase it was agrd that the annuity should remain charged upon that pt of the farm lds, &c. which was not sold to the sd C D and that the sd C D his hrs and ass should have a power of distress and entry upon the same by way of indemnity to him and them agst the paymt of the sd rent charge Now this Indre witneseth That in conson of the preses the sd A B doth hby for himself his hrs exs and ads covt, &c. with, &c. the sd C D in manner followg that is to say That the sd annty or yrly rent charge of £ — shall henceforth be exclusively charged upon and issuing out of the farm and hereds mentd in the schedule hereunder written being such of the farm and lds, &c. as are not comprised in the sd in pt recited indres of lease and rele And furr that if at any time or times hrafrt any distress or distresses shall be made or levied in or upon any pt of the lds and hereds comprised in the sd in pt recited indres of lease and release Then and in evy such case it shall be lful for the sd C D his hrs and ass to enter into

Recital of conveyance to purchaser of lands.

Charged with payment of an annuity.

Agreement that annuity shall be charged upon other lands.

Testatum.

Power of distress, &c.

and distrain upon the hereditaments in the schedule hereunder written or any part thereof and the distress and distresses then and there made under the authority of these precepts to take lead drive carry away and impound and the same to detain and keep and in due time after to sell and dispose of or otherwise to act therein according to law in the same manner as in cases of distress taken for payment of rent reserved upon leases for years To the intent that by the ways and means aforesaid the said C D his heirs and assigns may be fully paid and satisfied all sum and sums of money costs charges damages and expenses which he or they may incur, &c. by reason or in consequence of such distress or distresses or any actions suits or or proceedings for recovering payment of the said annuity or yearly rent-charge or in relation thereto And also the costs charges and expenses incident to or attending the said distress or distresses to be made or levied as aforesaid In Witness, &c.

Another, where Estates sold by Public Auction, are subject to Two Yearly Rent-charges.

Sale by
auction.

Rent-
charges.

Convey-
ance to A B.

Agreement
to exoner-
ate estates.

This Indenture made, &c. Between A B of, &c. of the first part (trustees for sale) of, &c. trustees named in the last will and testament of I F late of, &c. decd of the second part C D of, &c. and E F of, &c. of the third part and (trustees) of, &c. named by and on behalf of the said C D and E F of the fourth part *Whas* (recite will whereby certain estates were devised to the parties of the second part to sell) *And whas* the said (T) in pursuance of the trusts reposed in them by the said in part recited will have caused the messes or tenements lands and hereditaments hereafter described to be put up to sale by public auction pursuant to the printed particulars of sale in lots at which sale the said A B was decided to be the purchaser of Lot 1 and the said C D and E F to be purchasers of the remaining lots *And whas* in the aforesaid particulars it is stated that the estates comprised therein were subject to the perpetual payment of £ — a year to the curate or vicar of — and also of £ — to the hospital of — which two sums are for the future to be charged upon and paid by the purchaser of the premises comprised in Lot 1 *And whas* by indentures of lease and rele the lease bearing date the day next before and the rele even date herewith the messes, &c. therein particularly described and comprised in Lot 1 of the aforesaid particulars have been conveyed to the said A B *And whas* the said A B at the request of the said (T) hath agreed to exonerate the premises comprised in Lots — from the payment of the said sums of £ — and £ — as in man-

ner hnaft mentd *Now this Indre witnesseth* That in pursuance of the sd agrmt and in conson of the preses He the sd A B doth hby charge and make chargeable the preses comprised in Lot 1 in the afd parlars of sale with the paymt of the sd sums of £ — and £ — And for the more completely effectuating the exoneration of the or. messes, &c. comprised in the remaining lots purchased by the sd C D and E F and also in conson of 5s. to the sd A B by the sd (*trustees for A B and C D*) in, &c. pd the rect, &c. He the sd A B Hath given granted and confirmed and by, &c. *Doth give, &c.* unto the sd (T) their hrs and ass for ever one clear annuity or yrly rent charge or sum of £ — to be yrly issuing and paye out of *all those, &c.* comprised in Lot 1 of the afd parlars *To Have Hold* rece perceive and enjoy the sd annuity or yrly sum of £ — and evy pt thof unto the sd (T) their hrs and ass to be pd and paye at by four equal quarterly paymts on the day of, &c. betn the hours of the first payment to be made on the day of next ensuing *Provided always, &c.* (powers of distress and entry, see *Annuity*, vol. i. p. 66.) *And it is hby decld and agrd by and betn the sd pties that they the sd (T) shall stand possessd of and interested in the sd annty or yrly sum of £ — Upon trust in case the sd C D or E F or either of them their or either of their hrs or ass or any psn or psns claiming under or in trust for them or any or. psn or psns for the time being entitled to or in posson of the preses comprised in the sevl lots hnbeft mentd or any of them or any pt thof shall at any time hraft be compelled to pay and satisfy the sevl annities or sums of £ — and £ — hby exclusively charged upon the preses out of which the sd annty or yrly rent-charge or sum of £ — is hby granted or any of them or any pt thof or any arrears thof or shall incur or sustain any loss costs chas dams or exps on acct or by reason of the nonpayment thof or on any or. acct whater relating thereto That then and as often as the same shall happen the sd (T) shall and do from time to time (when lawfully required) by and out of the yrly rent-charge hby granted by sale or mtge or by such or. means as to them shall seem meet (but not until such notice as hnaft mentd shall have been given) raise and levy such sum or sums of money as shall be necessary to pay and satisfy all and evy the sum or sums of money losses costs chas dams and exps which the sd C D or E F or either of them their or either of their hrs and ass or any psn, &c. shall have been compelled to pay in respect of the sd annuities or sums of £ — and £ — or either of them And also all costs chas*

Testatum.

Charge upon estates of A B.

Exoneration of other estates.

Declaration of trusts.

and distrain upon the hereditaments in the schedule hereunder written or any part thereof and the distress and distresses then and there made under the authority of these precepts to take lead drive carry away and impound and the same to detain and keep and in due time after to sell and dispose of or otherwise to act therein according to law in the same manner as in cases of distress taken for payment of rent reserved upon leases for years To the intent that by the ways and means aforesaid the said C D his heirs and assigns may be fully paid and satisfied all sums and sums of money costs charges damages and expenses which he or they may incur, &c. by reason or in consequence of such distress or distresses or any actions suits or or proceedings for recovering payment of the said annuity or yearly rent-charge or in relation thereto And also the costs charges and expenses incident to or attending the said distress or distresses to be made or levied as aforesaid In Witness, &c.

Another, where Estates sold by Public Auction, are subject to Two Yearly Rent-charges.

Sale by
auction.

Rent-
charges.

Convey-
ance to A B.

Agreement
to exoner-
ate estates.

This Indenture made, &c. Between A B of, &c. of the first part (trustees for sale) of, &c. trustees named in the last will and testament of I F late of, &c. decd of the second part C D of, &c. and E F of, &c. of the third part and (trustees) of, &c. named by and on behalf of the said C D and E F of the fourth part *Whas* (recite will whereby certain estates were devised to the parties of the second part to sell) *And whas* the said (T) in pursuance of the trusts reposed in them by the said indenture recited will have caused the messuages or tenements lands and hereditaments hereafter described to be put up to sale by public auction pursuant to the printed particulars of sale in lots at which sale the said A B was decided to be the purchaser of Lot 1 and the said C D and E F to be purchasers of the remaining lots *And whas* in the aforesaid particulars it is stated that the estates comprised therein were subject to the perpetual payment of £ — a year to the curate or vicar of — and also of £ — to the hospital of — which two sums are for the future to be charged upon and paid by the purchaser of the premises comprised in Lot 1 *And whas* by indentures of lease and rele the lease bearing date the day next before and the rele even date herewith the messuages, &c. therein particularly described and comprised in Lot 1 of the aforesaid particulars have been conveyed to the said A B *And whas* the said A B at the request of the said (T) hath agreed to exonerate the premises comprised in Lots — from the payment of the said sums of £ — and £ — as in man-

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Testatum.

Charge upon estates of A B.

Exoneration of other estates.

Declaration of trusts.

Covenant
to pay an-
nuities.

and exps which the sd (T) or the survor of them or the hrs or ass of such survor shall have incurred in raising levying and satisfying such sums as afd or orwise in or about the exon of the sd trusts in them reposed and do and shall dispose of the mos so raised and levied so as effectually in all things to indemnify the sd C D and E F or either of them their, &c. and all pns claiming under them or orwise as afd their respive lds and tents goods and chattels agst the sd yrly paymts of £ — and £ — resply and all arrears thereof And it is hby decld and agrd to be the true intent and meaning of these prests and of the pties hereto that no sum or sums of money shall be raised under the trusts hnbeffe expsed and decld until after the sd (T) or the survor, &c. shall have delivered or left for the sd A B his hrs or ass at his or their usual place of abode one calr mth's previous notice in writing under his or their hand or hands of his or their intention to raise such sum or sums of money and also of the amount intended to be raised And the sd A B for himself his hrs, &c. doth hby covt with, &c. the sd C D and E F their hrs and ass that he the sd A B his hrs or ass shall and will at all times well and truly pay the sd annuities or sums of £ — and £ — hby charged upon the preses comprised in Lot 1 of the afd parlars as and when the same shall become due and paye And shall and will defend keep harmless and indemnify the sd C D and E F, &c. and the preses, &c. resply of and from the sd sums of £ — and £ — and all distresses entries dams and exps resply on acct thof (here add receipts of trustees to be valid discharges, indemnity to trustees, and appointment of new trustees. See *Covenants*, Vol. ii. p. 6) *In Witness*, &c.

LEASES.

Definition.

Under-
lease.

Operative
words.

Force of an
agreement.

§ 1. A lease is a contract between lessor and lessee for the possession and profits of lands and tenements, on the one hand, and on the other, for a recompense by way of rent or otherwise, *Bac. Abr. Leases* [A] Where a lessee for years disposes of his term, reserving to himself a portion, it is called an under-lease; but if it be for the whole of the interest which the lessee has in the premises, it is an assignment; *Blencowe v. Bugby*, 5 Wils. 234. The usual words in a lease are, 'demise, grant, and to farm-let,' but any words shewing that the parties intend that the lessee shall occupy the premises are sufficient, and that without any further deed or instrument. But it is now settled that an informal instrument, to operate as a lease, must contain words of present demise (see *Agreements for a Lease*, Obs. 2 & 3.)

2 In every lease it is requisite that there should be a lessor able to grant, and a lessee to take, a subject matter demisable, and the needful ceremonies.

Requisites to a lease.

3. All persons, being natural born subjects, and free from the disabilities of infancy, coverture, or insanity, may be lessors or lessees (see 'Agreements,' § 2.) A lease by an infant, where rent is not reserved, is absolutely void, otherwise it is only voidable; *Kelsey's Case*, Cro. Jac. 320; *Ashfield v. Ashfield*, Sir W. J. 157; *Baylis v. Dineley*, 3 M. & S. 441. A *feme covert* cannot make a valid lease of her lands, except under a power, or unless it be made by her and her husband, under the 32 H. VIII. c. 28. Although a person of unsound mind can generally do no binding act, yet by the 1 W. IV. c. 65, s. 24, the committee of a lunatic may make leases under the direction of the Lord Chancellor. By the 32 H. VIII. c. 28, tenants in tail may make leases for three lives, or for 21 years, to commence from the making thereof, provided the accustomed yearly rent, within the last twenty years next before such lease, be reserved. Such leases will be binding on the issue, but not on those in the remainder or reversion, Co. Litt. 456. They must likewise contain all such beneficial clauses and reservations as the remainder-man is entitled to have, so that the estate may come to him in as beneficial a manner as ancient owners held it; *Taylor v. Horde*, 1 Burr. 121 (see *Precedent*.) All persons having only partial interests as tenants for life, by the curtesy, in dower, by elegit, statute merchant, or statute staple, may grant leases during the continuance of their respective estates, but no longer, unless under a power. And no acts of the parties will make a lease good after the death of tenant for life, unless it should appear to be plainly the intention to make a new grant; *Doe v. Butcher*, Dougl. 50; *Doe v. Archer*, 1 B. and P. 531; but under some circumstances equity will compel a remainder-man to execute a new lease to the tenant; *Stiles v. Cowper*, 3 Atk. 692. Joint tenants, tenants in common, and coparceners may either make leases of their own respective parts, Co. Litt. 185, a, or else all may join in a lease to a stranger. If parceners or joint tenants join in a lease, this shall be but one lease, for they have but one freehold; if tenants in common join in a lease, this shall be the several lease of each of their respective interests, Co. Litt. 45, a, 2 Roll. Abr. 64. If tenant for life, and he in the remainder, join in a lease for years by deed, this shall be the lease of tenant for life, during his life, and the confirmation of him in remainder or reversion, and after his decease it shall be the lease of him in remainder or reversion, Co. Litt. 45, a, *Treport's Case*, 6 Co. 14, b. (see *Precedent*.) Ecclesiastical persons, and eleemosynary corporations, may, by the above-mentioned statute, make leases, subject to the same restrictions. The 5 G. III. c. 17, also authorizes ecclesiastical persons to grant leases of incorporeal hereditaments. Leases by beneficed clergymen are restrained, in case of non-residence, by the 13 Eliz. c. 20; and other statutes which, after being repealed, were revived by the 57 G. III. c. 99. Executors and administrators, unless restrained by the leases granted to their testators, may grant under-leases, and the rent reserved will be assets in their hands; *Sir Moyle Finch's Case*, 6 Co. 67, Bac. Abr. *Leases* [J. 7.] A guardian in socage, or a testamentary guardian, cannot make a lease of his ward's lands; *Roe v. Hodgson*, 2 Wils. 129, 135; unless it be limited to the term of his minority, 2 Roll. Abr. 41. Neither a mortgagor nor a mortgagee can make a lease to bind the other without his concurrence; *Keech v. Hall*, Dougl. 21. A copyholder cannot, except by special custom, or the licence of the lord, demise his lands for longer than a year without incurring a for-

By whom to be made.

Infants.

Femes covert.

Lunatics.

Tenant in tail.

Tenants for life, &c.

Joint tenants, &c.

Ecclesiastical persons.

Executors.

Mortgagors, &c. Copyholders.

- Trustees for charities. *feiture; Melwick v. Luter*, 4 Co. 26; *Lady Montague's Case*, Cro. Jac. 301. So having a licence to lease, he must pursue his licence strictly, otherwise the lease is void, Com. Dig. Tit. *Copyhold*. And a lease by parol, or to commence *in futuro* will incur a forfeiture; *East v. Harding*, Cro. Eliz. 498. Leases of charity lands are under the peculiar cognizance of the Court of Chancery. Where the mode of granting leases is prescribed by the founder, the terms must be strictly adhered to, otherwise the lease cannot be supported; *Atty. Gen. v. Griffith*, 13 Ves. 565; Woodf. L. & T. 38. But where there is no power, the trustees must be guided by the general principle of the court; *Atty Gen. v. Owen*, 10 Ves. 555; *Atty Gen. v. Cross*, 3 Mer. 540. By 6 G. IV. c. 16, s. 77 and 7 G. IV. c. 57, s. 22, the assignees of bankrupts and insolvent debtors are authorized to execute, for the benefit of the creditors, all powers vested in any bankrupt and insolvent debtor of granting leases and the like; see *Bankruptcy*. Aliens are prohibited, by 32 H. VIII. c. 16, s. 13, from acquiring real property, but an alien may, after naturalization or denization, make valid leases of lands. Where a power is given to make leases, it must be strictly pursued, for if all the requisites, as to the number of years, its taking effect in possession or reversion, reservation of rent, and the like, be not carefully observed, the lease will be void at law against the remainder-man; Shep. Touchst. 269, *Pultney v. Lady Cavan*, 5 T. R. 567. Leases made by persons not having any vested estate at the time, will operate by estoppel on their ownership when they acquire the same; and where the lease is by indenture, both the lessor and the lessee are concluded from avoiding the same; *Palmer v. Ekins*, Ld Raym. 1550, Bac. Abr. *Leases* [O.]
- Assignees of bankrupts, &c. 4. Leases may be made to all natural born subjects who are not under any legal disability, as infancy, &c. Leases to infants are voidable only, not absolutely void. By the 29 G. II. c. 31, amended by the 1 W. IV. c. 65, infants, lunatics, or persons appointed on their behalf, and *femes covert*, are enabled, on a summary application by petition to the Court of Chancery, to surrender leases for lives or years, in order to obtain a renewal, and to accept the renewed leases. An alien friend may take a lease of a house for the purpose of trade or commerce; *Pilkington v. Peach*, 2 Show. 135; *Rex v. Eastbourne*, 4 E. 101; but the 32 H. VIII. c. 16, s. 13, makes void leases to artificers or handicraftsmen. By the 7 & 8 W. III. c. 37, no spiritual or lay corporation can take a lease of real property without a licence in mortmain. By the 57 G. III. c. 99, spiritual persons are authorized to take leases for occupation by themselves of lands not exceeding 80 acres, or of a greater quantity with the licence of the bishop.
- Aliens. 5. Leases may be made of any thing corporeal or incorporeal that lies in livery or grant, Touchst. 268. Not only lands and houses, but also goods and chattels, may be let for years; but the interest of the lessee therein differs from that which he has in lands; for if one lease for years a stock of live cattle, and any of them die, the property vests absolutely in the lessee. It ought therefore to be stipulated in such leases, that the lessee should leave other cattle, equal in number and quality, at the end of the term, and if it be a lease of dead stock, that it be left in as good condition, allowing for reasonable use and wear in the mean time, Bac. Abr. *Leases* [A.] Incorporeal hereditaments, as advowsons, tithes, commons, tolls, fairs, markets, &c. are all demisable, and also offices, provided they are not offices requiring personal skill and attendance, and connected with the administration of justice, are all demisable, Co. Litt. 233, *Mark Steward's Case*, 9 Co. 99; *Howard v. Wood*, 2 Lev. 245; *The Case of Sutton*, 6 Mod. 57.
- Under powers. Incorporeal hereditaments. Not offices of trust,

Anonymous, *Ld Raym.* 1038; but dignities cannot be granted for years, *Co. Litt.* 16, *b*; and rent, properly speaking, cannot by a subject be reserved out of incorporeal hereditaments, *Co. Litt.* 144, *a*; except on a lease of a remainder or reversion of an incorporeal hereditament; *Gilb. on Rents*, 23; but if a lease for years be made of an incorporeal inheritance rendering rent, such reservation is good to bind the lessee by contract, and to give the lessor an action of debt on nonpayment; *Gilb. Rents*, 24. With respect to commons, the 13 G. III. c. 81, s. 15, empowers the lord of any manor, with the consent of three-fourths of the persons having right of common, by public auction, to lease, for any term not exceeding four years, any part of the wastes or commons not exceeding a twelfth part thereof; the rents to be applied in draining and improving the residue of the wastes and commons.

nor dignities,
nor rent.

Commons.

6. The principal formalities requisite to a valid lease are (if by deed) writing on paper or parchment, signing, sealing, attesting, and executing and delivering, at the same time being impressed with the proper stamp. Before the 29 Car. II. c. 3, leases might be either in writing, or by parol or word of mouth, *Shep. Touchst.* 267; but now they must be in writing, and signed by the parties or their agents, duly authorized, except leases not exceeding three years, and whereupon the rent reserved shall be at least two-thirds of the improved value. Leases in writing do not necessarily require to be by deed, except in the case of leases by corporations aggregate, leases of incorporeal hereditaments not incident to and granted with corporeal ones, leases for lives, and leases under powers which expressly require a deed. A lease by deed may be either by indenture or deed poll. The safest and most usual course is to have an indenture, *Bac. Abr. Leases* [N.]

How made.
By deed.
Parol, or
in writing.

Indenture.
Deed poll.

7. By the last Stamp Act, 55 G. III. c. 184, leases are subject to two species of *ad valorem* duties, namely, one in respect to the fine or premium, if any, and the other on the amount of the rent reserved. A lease or tack of lands, &c. granted in consideration of a sum of money, by way of fine or premium, without any yearly rent, or a rent under 20*l.*, is subject to the same duty as is payable for a conveyance on the sale of lands, except leases for a life or lives not exceeding three, or for a term of years, determinable with a life or lives not exceeding three, and leases for a term absolute not exceeding 21 years, granted by ecclesiastical corporations. Every lease, without a fine or premium, where the yearly rent shall not amount to 20*l.*, is subject to the duty of 1*l.*; where to 20*l.*, and not to 100*l.*, 1*l.* 15*s.*; where to 100*l.*, and not to 200*l.*, 2*l.*; where to 200*l.* and not to 400*l.*, 3*l.*; where to 400*l.*, and not to 600*l.*, 4*l.*; where to 600*l.*, and not to 800*l.*, 5*l.*; where to 800*l.*, and not to 1,000*l.*, 6*l.*; where to 1,000*l.* and upwards, 10*l.* Every lease with fine or premium and yearly rent is subject to both the *ad valorem* duties. For leases not otherwise charged, 1*l.* 15*s.*; for the counterpart of every lease charged with an *ad valorem* duty not exceeding 1*l.*, the same duty as the lease; for the counterpart of every other lease, 1*l.* 10*s.* And where the lease, together with the schedule, &c. shall contain 2,160 words or upwards, the further progressive duty of 1*l.* for every entire quantity of 1,080 words.

Stamp.

8. A lease by deed, usually consists of the premises *habendum* and *tenendum*, *reddendum* or reservation, covenants and provisoes, or conditions.

Parts of a
lease.

9. The premises include all that precedes the *habendum*; *Sheph. Touchst.* 75; as the date, names of the lessor and lessee, the parcels or things, which ought to be accurately described, and

Premises.
Parcels.

Exception. the exception or thing excepted, if there be any. Where the lessor has the freehold, the exception ought to be made to his heirs and assigns; but, where he has only a term of years, then the exception ought to be to him, his executors, administrators, and assigns. Where in the premises a lease is made to a man, his executors, administrators, and assigns, and a proviso is afterwards inserted that he should not assign, this is held to be no repugnancy, for the word 'assigns,' shall be taken to mean such only as are, by operation of law, or express licence; *Weatherall v. Gee*; 2 Ves. Jun. 504.

Habendum. 10. The *habendum* and *tenendum*, is that part, which begins with the words, *To Have and to Hold*. The office of the *habendum* is to limit the certainty of the estate to the lessee. When the *habendum* is repugnant to, or inconsistent with the premises, it is void; *Throckmorton v. Tracy*. Plowd. 153; *Baldwin's Case*, 2 Co. 23; otherwise it serves to limit, enlarge, and qualify the premises; Co. Litt. 183. *Altham's Case*, 8 Co. 154, b.

Reddendum or rent. 11. The *reddendum*, is a clause whereby rent is reserved, beginning with the words, 'yielding and paying.' Where the lessor is owner of the fee, the reservation ought to be to himself, his heirs, and assigns; (or, if the lessors be a corporation, their successors and assigns,) and not to his heirs, executors, administrators and assigns; but it will, nevertheless, go to his heirs, because it follows the reversion; Co. Litt. 47. a. And so if rent be reserved generally without saying to whom, the law will make the distribution; Plowd. 171. And in *Whitebeck's Case*, it was agreed, that in leases under a power, this was the safer way; 8 Co. 71; although in practice, it is most usual in such leases, to reserve the rent 'to the tenant for life, and after his decease, to the person or persons who shall be entitled to the reversion and inheritance under the instrument creating the power.' Where the reservation is particular, as, 'to the lessor,' without saying more, or, 'to the lessor and his assigns,' there the rent shall determine with the death of the lessor, though the lease upon which it is reserved be still continuing, because the agreement of the parties, here prevents the construction of law; Plowd. 171. Hard. 91. So where the reservation is, 'to the lessor and his executors,' he having the freehold, it will determine at his death; *Sachaverell v. Froggatt*; 2 Saund. 367; but where the words 'during the term' are inserted in the reservation, the rent will go over to the heir, because these words declare the intention of the lessor, that the rent shall be of equal duration with the lease; *Sury v. Brown*; Latch. 92. Where the lessor has only a term of years, it ought to be reserved 'to his executors and administrators;' *Sir Matthew Jenion v. Lord Lexington*; 1 P. Wms. 555; but if reserved to his heirs and assigns, with the additional words, 'during the term,' the law will direct that it shall go to the executors; *Sachaverell v. Froggatt*, 1 Vent. 161. A particular sum to be paid over and above the rent annually, is held to be not a reservation; *Smith v. Mapleback*, 1 T. R. 441. Rent reserved, generally, is not due until the end of the year; *Cole v. Sury*, Latch. 264. *Smith v. Mapleback*, 1 T. R. 445. Where there are special days of payment limited upon the *reddendum*, the rent ought to be computed according to the *reddendum*, and not according to the *habendum*; *Tomkins v. Pinsent*, 2 Ld. Raym. 820.

Covenants and conditions. 12. As to the general nature of covenants, and the distinction between covenants implied, express, inherent, collateral, &c. also between covenants and conditions, see *Covenants*, Pref. § 1, 2. In leases of land for years reserving rent, the words 'grant and demise' imply a covenant for quiet enjoyment; *Noke's Case*, 4 Co.

Implied.

80; and the word *reddendum*, implies a covenant to pay rent; Roll. Abr. *Covenant* [C] pl. 10; or any other words of like import; *Drake v. Munday*, Cro. Car. 207. *Littleton's and Peme's Case*; 1 Leon. 157. *Thursby v. Plant*; 1 Saund. 241. [n.s.] But if goods be demised for years and the lessee be evicted, covenant does not lie on the word 'demise,' for the law does not create a covenant for a personal thing; *Spencer's Case*, 5 Co. 16, a. Likewise, an express covenant controls one that is implied; thus the implied covenant for quiet enjoyment, is restrained by the express covenant that the lessee shall enjoy without eviction, by the lessor, or any claiming under him; 4 Co. 80. Bac. Abr. *Leases*, [B. 7.] So under an express covenant to pay rent and repair, a lessee is bound to pay rent and rebuild when the house is burnt down; *Paradise v. Jene*, All. 26; but he is not so bound in law, because his special agreement alters the law, and makes his words to be taken most strongly against himself; Plowd. 29. Caution is, therefore, to be recommended in introducing covenants, that they be sufficiently explicit to meet the views of the parties. Most covenants in leases, whether implied or express, are said to run with the land, as for quiet enjoyment, to pay rent, to repair and keep in repair, not to cut down timber, not to do waste, &c.; *Hyde v. Dean and Chapter of Windsor*, Cro. Eliz. 457. *Spencer's Case*, 5 Co. 16. Sheph. Touchst. 176. *Thursby v. Plant*, 1 Saund. 241. So, by subsequent authorities, other covenants have been held to run with the land, as not to carry on a particular trade and to reside upon the premises; *Tatem v. Chaplin*, 2 H. Bl. 133. *Mayor of Congleton v. Pattison*, 10 E. 130; to supply the demised premises with water; *Jourdain v. Wilson*, 4 B. & A. 266; so likewise a covenant to insure, with a provision to lay out the money in rebuilding the premises, has been held to run with the land; 5 B. & A. 1, *Vernon v. Smith*. But to make a covenant run with the land, there must be a privity of estate between the contracting parties; *Webb v. Russell*, 3 T. R. 593: on the other hand, a covenant not to hire particular persons to work in a mill, has been held to be a personal covenant, *Mayor of Congleton v. Pattison*, 10 E. 136; so a covenant to pay a sum annually to a parish, *Mayhe v. Buckhurst*, Cro. Jac. 458; or to refer to arbitration, *Gray v. Cuthbertson*, 1 Selw. N. P. 493.

Express.

Running with the land.

13. Where a tenant covenants to pay rent, he cannot set off monies paid for repairs, unless authorized so to do by express stipulation; *Weigall v. Waters*, 6 T. R. 488. *Leeds v. Cheetham*, 1 Blm. 146; he may, however, plead certain payments, as of the land-tax, for the landlord, *Whitfield v. Brandwood*, 2 Stark. 440; or of the ground-rent, *Sapsford v. Fletcher*, 4 T. R.; *Andrew v. Hancock*, 1 B. & B. 37. A general covenant to repair and deliver up in repair, extends to all buildings erected during the term; *Doune v. Cale*, 2 Vent. 126; 8 C. nom. *Doune v. Earle*, 5 Lev. 264. Where a lease contains, besides a general covenant to repair, also a particular covenant to repair, care must be taken to draw these covenants with such clearness that the one may not be considered as qualifying the other; *Horsfall v. Testar*, 7 Taunt. 385, S. C. 1 J. B. Moore, 89. Where a lease contains a covenant to repair and also to insure in a specific sum, the liability of the lessee on the former covenant, is not limited to the amount of the sum to be insured under the latter; *Pitt v. Laming*, 4 Camp. 73. Church and poor's rates, are not included in a covenant to indemnify against all duties, charges, and taxes imposed on the land, 8 Mod. 314; but a covenant to pay a rent-charge, free from all taxes, extends to all taxes imposed by parliament; 2 Salk. 221. A covenant not to assign, is not a common and usual covenant;

Particular covenants

To pay rent.

To repair.

To insure.

To pay taxes.

Not to assign.

- (see *Agreements for a Lease*) if, therefore, it is intended that the lessee shall not assign, it must be provided for by express stipulation; but the courts construe such restraints upon alienation with jealousy; *Church v. Brown*, 15 Ves. 258. A covenant 'not to assign, set over, or otherwise do, or put away the lease or premises,' does not extend to underletting; *Blencowe v. Hughes*, 3 Wils. 234; but, if the proviso or condition be not to assign the whole or any part of the premises, 'or not to assign or otherwise part with, &c.,' then, neither an assignment nor an underlease can be made; *Roe v. Sales*, 1 M. & S. 297. If, after assignment, the lessor accepts rent, he dispenses with the condition; *Roe v. Harrison*, 2 T. R. 425; *Brummell v. Macpherson*, 14 Ves. 173; and if a lease be upon condition that the lessee shall not assign without licence, and the lessor after gives licence, the condition is entirely destroyed; *Dunpor's Case*, 4 Co. 119; but the condition may be revived by a deed of defeasance, or it may be kept alive by a particular provision in the lease, (see further, *Assignment of a Lease and Purchase Deeds*.) A covenant in a lease to grant a further term at the same rent, and under and subject to the same covenants as in the original lease, is now held to be a covenant for a single renewal, and that it does not entitle the lessee to have a covenant for renewal inserted in the new lease; *Iggulden v. May*, 9 Ves. 325; 7 E. 237. The terms for the renewal must, therefore, be defined with precision, or otherwise the construction of the courts will be generally against the lessee; *Baynham v. Guy's Hospital*, 3 Ves. 298. (See further, as to these covenants, *Agreements for a Lease*, Obs. 6.) A condition for re-entry on non-payment of rent, is usually inserted in leases, but in order to take advantage of this covenant, a formal demand of the rent must be made on the day specified in the condition; but the demand may be dispensed with by the special contract of the parties; *Dormer's Case*, 5 Co. 40. *Harris v. Masters*, 2 B. & C. 490. When the condition is, that the lease on non-payment of rent shall be absolutely void, and the lessee commits a breach of the condition, the lease is absolutely determined, and cannot be set up again by acceptance of rent; but if the clause be, that for non-payment of rent, it shall be lawful for the lessor to re-enter, the lease is only voidable, and may be affirmed by acceptance of rent or any other act, if the lessor had notice of the breach of condition; *Dupps v. Mayo*, 1 Saund. 287, n. 16. It is usual to insert in the condition for re-entry, a clause that the lessor shall be seised in his first estate, by which he avoids all meane charges and incumbrances.
- Incidents to a lease.** 14. The principal incidents to a lease entitled to notice here, are the commencement, duration, and determination of the term, the rights and liabilities of parties, the payment and apportionment of rent, estover, and waste.
- For life.** 15. A lease may be made for life or for years, or there may be a tenancy at will from year to year, or at sufferance. To a lease for life livery of seisin is necessarily incident, as it passes the freehold; but as a lease for years passes only the right of possession, it is completed by the entry of the lessee, Watk. Pr. 175. 2 Prest. Conv. 145, *et seq.* Leases for years must have a certain commencement and a certain determination, so that the continuance of the term must be certain, otherwise it is not good, *Bishop of Bath's Case*, 6 Co. 35. Co. Litt. 46, a. Sheph Touchst. 267. A lease for life cannot begin at a day to come; if therefore a lease be made to have and to hold from Michaelmas next it is not good, Sheph. Prec. 48, 49; but a lease for lives to commence 'from the date' shall be construed to include the day of the date, *Hatter v. Ash*, 1 Ld. Raym. 84. A lease for years may be made to begin at a day to come, and
- For renewal.**
- Condition for re-entry.**
- Lease to be void or voidable on condition broken.**
- For years.**
- Commencement of the term.**

the lessee before entry has an *interesse termini* which is grantable to another. Co. Litt. 46. Attornment was formerly incident to leases for lives or years, but is now rendered unnecessary by the 4 Ann. A lease at will is where lands are let to be held at the will of the lessor or lessee, or more properly of both; Co. Litt. 55. Tenancies at will may still be created by express contract, *Richardson v. Langridge*, 4 Taunt. 128; but in most other cases such a holding is now deemed to operate as a tenancy from year to year, *Clayton v. Blakely*, 8 T. R. 3; except where rent has not been received, *Doe v. Stennett*, 2 Esp. 717. A tenant from year to year is entitled to the same advantages as a tenant for a term of years, and his interest vests in his personal representatives, *Shore v. Porter*, 3 T. R. 13; and he is bound only to tenantable, not lasting repairs, *Countess of Salop v. Crompton*, Cro. Eliz. 777; *Ferguson v. —* 2 Esp. N. P. C. 590. A tenant at sufferance is he who enters by lawful demise or title, and afterwards holds over by wrong; Co. Litt. 57, b. So where a person takes possession of an empty house, and enters into a treaty with the landlord for a lease which was never made; *Doe v. Quigley*, 2 Camp. 504. By the 4 G. II. c. 28, tenants for life or years holding over after the determination of their estates, after demand made and notice in writing given, are liable to pay double rent. Leases for life or years may be determined by merger, (see *Assignment of Terms*) or surrender (see *Surrender*.) A lease for years may be determined by the expiration of the period, forfeiture for breach of some covenant, or by some express condition in the deed. A lease for a running period of three, seven, or fourteen years, &c. without prescribing at whose option it shall determine, will be determinable at the option of the lessee only; *Dann v. Sparrier*, 5 B. and P. 442; *Webb v. Dixon*, 9 E. 16. A tenancy at will is determined by either party; *James v. Dean*, 11 Ves. 392; but a tenancy from year to year requires that there should be six months notice to quit, (see *Notice*.)

At will.

From year to year.

Tenancy at sufferance.

Determination of the term.

16. Between a lessor and a lessee there is a privity of estate and a privity of contract, and they are reciprocally bound to each other by the covenants in the lease implied or express. The lessee is not discharged from the payment of rent or other covenants by assigning, *Rushden's Case*, Dyer, 4 b. *Chancellor v. Poole*, Dougl. 736, not even if the lessor has accepted the assignee as tenant, *Thursby v. Plant*, 1 Saund. 237. An assignee may discharge himself of his liability by assigning over, he being liable only in respect of his privity of estate, *Pitcher v. Tovey*, 4 Mo. 71. Bac. Abr. tit. Covenants, [E. 4.] Some covenants bind assignees, whether named or not, *Spencer's Case*, 5 Co. 16, a. Some covenants do not bind the assignee unless named, as if a man covenants for himself and his assigns, on a part of the land demised, this shall bind the assignee, because named, *Spencer's Case*, 5 Co. 19; *Gray v. Cuthbertson*, 2 Chitt. Rep. 482. Some covenants do not bind the assignee, although named, being merely personal: as to build a house on other land, or to do any collateral act not affecting the land, *Collison v. Lettsom*, 6 Taunt. 224: so the assignee may also take advantage of all covenants which concern the land, as to pay rent, not to commit waste, &c. Co. Litt. 214. Com. Dig. *Covenant*, [B. 37.] Between a lessor and an under-lessee there is neither privity of estate or contract, so that neither can sue or be sued by the other on the breach of any covenants entered into by the lessor and the original lessee, *Holford v. Hatch*, Dougl. 174, 183. An heir may take advantage of all covenants that run with the land, *Sale v. Kitchingham*, 10 Mo. 158, but is not bound by them unless expressly named, (see *Agreements*, § 2.) At common law no grantee or assignee of a reversion could take advantage of covenants in the lease granted by those under

Rights and liabilities of lessor and lessee.

Assignee.

Under-lessee.

Heir.

Grantees of the reversion.

Executors,
&c.

whom they claimed; but the 32 Hen. VIII. c. 34, gives to all grantees the full benefit of such covenants entered into with lessees for life and years, and the like remedy to lessees against the grantees of the reversion. An executor and administrator is liable to the payment of the rent and performance of the covenants in a lease, provided he has assets, *Pletcher v. Tovey*, 4 Mo. 71. So an executor or administrator may take advantage of all collateral or personal covenants, Com. Dig. *Covenant*. [B. 1.]

Payment
and appor-
tionment of
rent.

17. By the old law, rent was demandable and payable before the time of sunset of the day whereon it was reserved, in order to take advantage of a condition of re-entry, and to save a forfeiture; yet in other respects it was held, that the rent was not due until midnight, or the last minute of the natural day, 1 Saund. 287, [n. 16.] Where a time certain is appointed for the payment of the rent, neither the agent or principal is bound to attend at any other time. By the common law, generally speaking, rent cannot be apportioned, *Emott v. Cole*, Cro. Eliz. 256; *Countess of Plymouth v. Throgmorton*, 1 Salk. 65; but by the 11 G. II. c. 19, where the tenant for life dies in the interval between two days of payment, the personal representatives may recover a proportional part of such rent. This statute is held to apply also to tenants in tail, *Page v. Gee*, Amb. 198. But in the case of a lease under a power, if the lessor die before the rent becomes due, it cannot be apportioned, but will go along with the inheritance to him in the reversion or remainder, 1 Saund. 288, [n. 17.]

Estover.

18. Estover is the liberty of taking the necessary materials for the use and furniture of a house or farm, which is incident to the estate of every tenant for life or years, without provision of the party; these are housebote, that is, wood for rebuilding or repairing the house, or for consumption; ploughbote, for repairing ploughs, &c.; and haybote, for repairing hedges; all which the lessee may take without any assignment, unless restrained by special covenant to the contrary, Co. Litt. 41, b.

Waste.

19. Waste is a spoil or destruction in houses, gardens, trees, or other corporal hereditaments, to the disherison of him that has the remainder or reversion in fee simple or fee tail, Co. Litt. 53. It is either voluntary, as by pulling down a house; or permissive, by suffering it to fall. Whatever does a lasting damage to the freehold or inheritance is waste, *Herlakenden's Case*, 4 Co. 64. So the removing of fixtures, or whatever was annexed to the freehold, was waste, according to the old law, although put up by the tenant himself, *Cooke's Case*, Moore, 177; *Lord Darcy v. Ashwith*, Hob. 234; but it has since been decided that a tenant may remove all things necessary for trade, as brewing utensils, furnaces, coppers, &c. which he himself put up, provided they be removed within the term, *Ex parte Quincy*, 1 Atk. 477; *Pool's Case*, 1 Salk. 368; but not sheds, or other buildings erected for agricultural purposes, *Elwes v. Maw*, 3 E. 38; if they be let into the soil; but not where they merely rest upon blocks or pattens, and are not let into the soil, *Naylor v. Collinge*, 1 Taunt. 19. The exception is also admitted, as between tenant for life or in tail and the remainder-man. 1 Atk. 477; but not between the heir and executor, for an executor cannot enter to take away fixtures without being a trespasser, 1 Atk. 470. An action of waste did not lie at common law against the lessee for life or years, but by the Stat. of Gloucester lessees are made punishable for waste, and that too in case of accidental fire, 2 Inst. 301; and this extended to a tenant from year to year, 2 Inst. 302; but not to a tenant at will, Co. Litt. 57, a; 5 Co. 13, b. Now by the 6 Ann. c. 31, it is provided, that if a house be destroyed by

Fixtures.

tempest, lightning, or accidental fire, it is no waste, and no action shall be maintained against any person in whose house any fire shall accidentally begin, with a proviso that this act shall not defeat any agreement of parties. An action of waste is now very seldom resorted to in practice, as the lessor is mostly protected by the covenants of the lease against waste; and with respect to damages, they may now be obtained by an action on the case, *Petersd. Abr. tit. Waste*. As to leases, see further, *Woodfall on Landlord and Tenant*, *Comyns on Landlord and Tenant*, *Chambers on Leases*, *Bacon's Abridgement*, *tit. Leases*.

Of a House.

Lease of a House. (General Precedent.)

Obs. As to the necessary stamps, see Pref. § 7.

This Indre made, &c. Betn (lessor) of, &c. of the Stamp.
one pt and (lessee) of, &c. of the or. pt *Witnesseth* that
for and in conson (a) of the rent and covenants hnaft
reserved and contd on the pt of the sd (lessee) his exs
ads and ass (b) to be pd performed and kept He the sd
(lessor) Hath granted demised and leased and by these
prests Doth grant demise and lease All that messe, &c.
situate, &c. (*here describe boundaries and abutalls*
minutely) togr with all the appts (or cellars (c) vaults
areas ways ancient and or. lights pumps drains sewers
waters watercourses easements prfts commodities ad-
vantages emoluments and all manner of privileges
appendages and apts whatsr') to the sd messe or tent
hby demised or intended so to be belonging [*except and*
always reserved out of this demise the free passage and
running of water and soil from the or. buildings, of, &c.
and his tenants by and through the channels and drains
of the sd hby demised preses the tenant or tenants of
such or. houses and building on request paying his or
their share and proportion of the chas of cleansing and
repairing the same as need shall require] *To Have and*
To Hold the sd messe or tent and all or. the preses
hby demised with their appts [*except as afd*] unto the
sd (lessee) his exs ads and ass (d) from the day of
now next ensuing (e) for and during and unto the
full end and term of yrs fully to be complete and
ended [*determinable nevss as hnaft mentd*] (f) *Yield-*

Demise.
General words.
Exception.
Habendum.
Term.

(a) If it be so agreed, 'of the sum of £ — of lfl, &c. to the sd (lessor) by the sd (lessee) before, &c. the rect, &c. and in conson of, &c.' As to the stamp, in the case of paying a premium, see Pref. § 7.

(b) Why naming assigns of the lessee, not repugnant to the clause against assigning, § 8.

(c) Or, if a house in the country, 'togr with all yards gardens orchards backsidcs barns stables outhouses edifices buildings cellars, &c.'

(d) As to the naming assigns, § 8.

(e) As to a lease in futuro, § 15.

(f) As to the covenant implied by these words, see § 12.

Of a House.	ing and Paying therefore yrly and evy yr during the sd term unto the sd (lessor) his hrs and ass (a) the yrly rent or sum of £ — of lful money of Gt Britn paye quarterly upon the four usual quarterly days (b) of paymt in the year that is to say on the day of, &c. by even and equal portions witht any deduction or abatement whatsr for or on account of any taxes chas rates assessments or impositions whatsr parliamentary parochial (c) or orwise already or at any time hrafrt to be imposed [except the land-tax or the sewers-rate, &c. as the case may be] the first paymt thof to be made on the day of next [save (d) and except at all times during the sd term such proportionate pt of the sd yrly rent of £ — as shall or may grow due during such time as the sd messe or tent hby demised shall witht the deft of the sd (lessee) be and remain uninhabitable by reason of accidental fire] And the (lessee) for himself his heirs (e) executors administrators and assigns (e) doth hby covt promise and agree, &c. with and to the sd (lessor) his hrs exs ads and ass in manner following that is to say that he sd (lessee) his hrs exs and ads shall and will from time to time and at all times during the
Redden- dum.	sd term of yrs (except in the case of fire as afd) well and truly pay or cause to be pd unto the sd (lessor) his hrs (f) and ass the sd yrly sum of £ — of lful, &c. upon the sevl days and in the manner hnbeft mentd or apptd for paymt thof and according to the true intent and meaning of these prests And also shall and will during the sd term bear pay and discharge (g) all and all manner of taxes rates duties chas assessments and impositions whatsr already or at any time hrafrt to be charged or imposed upon or in respect of the demised preses or any pt thof [except as before excepted] [And also shall and will during the sd term when need shall require bear pay and allow a rease share with the or. tenants for supporting repairing cleansing amending and rebuilding all party walls gutters sewers drains and
Covenants from lessee.	
Topay rent.	
To pay taxes.	
To repair.	

(a) Or, 'their successors and ass,' or, if the lessor has only an estate for years, 'his exs ads and ass.' See § 11.

(b) As to the time of paying rent, see § 17.

(c) As to what included under the word taxes, see § 12. The whole covenant and exception is to be omitted, if the lessor covenant to pay the taxes. See the end of this precedent.

(d) As to the covenant to repair in case of fire, see § 12. This exceptive clause to be omitted, if the lessor covenants to suspend the rent and repair himself; see at the end of this precedent.

(e) As to the naming of heirs, and also of assigns, see § 8.

(f) Or, 'his exs ads and ass'

(g) If land-tax and sewers rate be not excepted, say, 'the land-tax sewer's rate and all other taxes, &c.'

cesspools belonging to the sd preses] (a) *And also* that he the sd (*lessee*) his exe, &c. shall and will at all times during the sd term well and sufficiently repair support amend paint pave cleanse and keep the sd preses with the appts with all manner of needful and necessary reparations cleansings and amendments whater And the sd preses so being well and sufficiently repaired supported amended paved painted cleansed and kept togr with all the doors wainscots shelves dressers drawers locks keys bolts bars staples hinges hearths chimney-pieces mantle-pieces chimney-jamba footpases slabs covings windows sashes shutters partitions sinks punips pipes wells privies drains cess-pools cisterns and all things which now are or which at any time during the sd term shall be (b) fixed or fastened to or set up in or upon the sd preses or any pt thof or belonging thereto shall and will at the expiration or or. sooner determination of the sd term which shall first happen peaceably yield up to the sd (*lessor*) his hrs and ass togr with all and singr the fixtures contd in the inventory here under-written in as good condon as the same now are (rease use and wear thof and casualties by fire (c) in the mean time only excepted) *And (d) also* shall and will during the sd term insure and keep insured the sd preses and outbuildings hby demised for the sum of, &c. at least in the office or some other public office for insurance in London or Westminster and when thereunto required produce the policy and rect for such insurance to the sd (*lessor*) his hrs and ass (e) *And also* that it

Of a House.

To repair.

To deliver up in good repair.

To insure.

Liberty for lessor to

(a) If it be so agreed, say, '*And also* that he the sd (*lessee*) his exe, &c. shall and will within the first three yrs of this demise lay out and expend the sum of £ — at least in and upon the substantial repairs of the sd demised preses the application of the sd sum and the reparations as afd to be from time to time surveyed and inspected by such pan or pans as the sd (*lessor*) his hrs or ass shall direct or appt to survey the same *And also* that he the sd (*lessor*) his exe, &c. shall and will when required produce and deliver to the sd (*lessor*) his hrs or ass the bills and rects of the sd different tradesmen employed in doing such repairs as afd for the respive sums acknowledged to be pd therein for that purpe or duplicates thof *And also*, &c.'

To lay out in repairs.

(b) As to waste and fixtures, see § 19: also as to what included under covenant to repair, see § 12.

(c) As to the extent of the covenant for repairing or rebuilding, in case of fire, or for insuring, see § 13.

(d) '*And also* shall and will paint paper and whitewash in a good and workmanlike manner at the end of every year all and singr such parts of the sd preses as resply are now painted papered and whitewashed (or paint all the outside parts of the sd preses twice and the inside once during the sd term.)

To paper, &c.

(e) '*And in* deft thof that then the sd (*lessor*) his hrs and ass shall be at liberty to insure the same in the manner afd and pay the premium and duty paye thereupon and charge the sd (*lessee*) his exe

In case of default lessor to in-

<p><i>Of a House.</i></p> <p>enter and view state, &c.</p>	<p>shall be lful for the sd (<i>lessor</i>) his hrs and ass or his or their stewards surveyors workmen and ors employed by him or them twice in every year (or oftener if he or they shall see occasion) in the daytime to enter into the sd preses or any pt thof for the purpose of viewing and examining the state and condon of the same and of such decays defects and wants of reparation to give or leave notice in writing in or at the same preses for the amendment thof and that he the sd (<i>lessee</i>) his exs ads or ass shall and will within three months after such notice well and sufficiently repair amend and make good all such decays defects and wants of reparation and amendment (a) <i>And (b) furr</i> that the sd (<i>lessee</i>) shall not nor will at any time or times during the sd term carry on or cause or permit to be carried on any or either of the businesses of a-soap-boiler tallow-chandler oil-refiner vintner distiller brewer alehouse-keeper victualler tripe-boiler butcher baker blacksmith whitesmith coppersmith brazier tinman plumber dyer shoemaker pewterer furrier fellmonger chymist druggist or shopkeeper of any description nor to use the same preses nor suffer the same</p>
<p>Not to carry on noxious trades.</p>	<p>ads and ass with such payment and int thereon from the time of paying the same which he the sd (<i>lessee</i>) shall and will pay to the sd (<i>lessor</i>) his hrs and ass at the quarter day next following for the payment of the rent herein reserved And in case the sd messe or tent and preses or any pt thof shall at any time during the sd term be destroyed burnt down or damaged by fire then it is hby agrd that all such sums of money which shall be pd by the proprietors of the sd insurance office by virtue or in consequence of such policy or policies of insurance shall forthwith or with all convenient speed be laid out and applied in and towards the substantially rebuilding reinstating and repairing such pt or pts of the sd demised preses as shall be so burnt down or damaged as afd' If it be agreed that the lessor shall repair and rebuild, omit the above covenant, and see the end of this precedent.</p>
<p>To fix up notice for letting.</p>	<p>(a) <i>'And furr</i> that it shall be lful for the sd (<i>lessor</i>) his hrs ass agents or servants at any time or times during the last three months next preceding the expiration or or. sooner determination of the sd term to affix or set up a printed written or or. notice upon any conspicuous part of the sd demised preses that the same will be to be letten and also at all convenient times in the daytime to enter into and upon the sd preses to shew the same to any pen or pens desirous of viewing the same.</p>
<p>No erections, &c. to be made on premises without consent.</p>	<p>(b) Also, if needful, add, <i>'And also</i> that no erection or building whatsr shall at any time during the sd term be erected in or over the yard or ground behind or belonging to the sd messe or tenement hby demised or in or over the area thof or any other pt or pts thof. <i>And also</i> that no alteration or addition shall at any time during the sd term be made in or to the height front sides roof walls timbers or elevation of the sd messe or tent and preses hby demised without the consent in writing of the sd (<i>lessor</i>) his hrs or ass <i>And also</i> that no act matter or thing whatsr shall at any time be done in or upon the sd preses or any pt thereof whby the window or lights belonging to any messe tent or building of the sd (<i>lessor</i>) his hrs or ass shall or may in any manner be stopped or obstructed.'</p>

to be used as a slaughterhouse glasshouse auction room potatoe warehouse or police office nor for the purpose of carrying on any dangerous noxious noisy or offensive trade whatever witht the licence and consent of the sd (lessor) first had and obtained for that purpe (a) And (b) also that he the sd (lessee) his exs or ads shall not nor will assign set over or orwise dispose of or part with the sd preses hby demised or any pt thof or his or their este or int therein [other than by will and testament to his wife children or next of kin, *as the case may be*] witht the special licence and consent in writing of the sd (lessor) his hrs or ass first had and obtained for that purpe [but (c) which sd licence shall not extend nor be deemed to extend to any future assignee or be considered as a waiver of the present covenant for restraining the assignment of the present lease or the term or interest which shall be then to come therein *Provided* *never* and it is hby decld and agrd by and betn the pties to these preats that the sd (lessor) his hrs and ass shall not nor will arbitrarily and witht good and sufficient reason and cause assigned withhold such consent as afd nor shall or will demand or require any sum of money reward or premium for giving or granting the same] *Provided always* and these preats are upon this express condon that if the rent hby reserved or any pt thof shall be unpd for the space of days next after any of the days on which the same ought to have been paid (although no formal or legal demand (d) shall have been made thof) or in case of the breach or non-performance of any of the covts and agrts hncontd on the pt of the sd (lessee) his exs ads or ass to be done kept or performed (e) then and from thenceforth and in either of

Of a House.

Not to assign.

Clause of re-entry.

(a) If it be an inn or public-house, instead of the covenant in the text, say, 'And also that he the sd (lessee) his exs, &c. shall and will during the continuance of the sd term hby demised keep open the sd messe or tent and allow the sd preses with the apts to be used as and for an inn for the reception and entertainment of psns resorting thereto with horses and cattle And also shall and will annually at the stated times apply for and use his best endeavours to obtain all such licences at his and their own expence as are or may be necessary for keeping open the same And shall not do or suffer to be done any matter or thing in or about the sd preses during the sd term whby the sd licence or licences may be forfeited or refused.'

As to an inn, &c.

(b) As to the covenant against assigning, see § 13.

(c) As to the effect of omitting this clause of defeasance, see § 13.

(d) As to the demand of the rent, see § 17.

(e) 'Or if the sd (lessee) his exs or ads shall commit any act of bankruptcy whereon a fiat for prosecution thereof shall issue and whereon he shall be adjudged a bankpt or if he or they shall make any composition with his or their creditors for the payment of his or their debts or shall make any assnmt of his or their este and

- Of a House.* such cases it shall be lful for the sd (*lessor*) his hrs or ass (or 'his exs ads or ass') into and upon the sd demised preses or any pt thof in the name of the whole to re-enter and the same to have re-possess and enjoy as in his or their former *este* and as if these prests had not been made and exted And the sd (*lessor*) for himself his hrs and ass doth hby covt, &c. with the sd (*lessee*) his exs ads and ass that he and they paying the rent hby reserved and performing the covenants stipulations restrictions and agrts hnbeft contd shall and may peaceably hold and enjoy the sd preses hby demised during the sd term witht the lful let suit forcible eviction or interruption of the sd (*lessor*) his hrs or ass or any psn or psns lfully claiming or to claim by from or under him them or any of them (a)
- Covenants from lessor for quiet enjoyment.*
- Renewal of lease.* effects for the bent of his or their creditors or if any writ or writs of exon shall issue out agst his or their psn or psns *este* or *estes* goods chattels and effects which shall first happen Then, &c.
(a) And also that the sd (*lessor*) his hrs or ass (or 'their successors or ass,' see § 8) shall and will before the expiration of this present lease at the request costs and chas of the sd (*lessee*) his exs ads or ass grant and exte unto him or them a new and fresh lease of the messe or tent and all or. the preses hby demised with their apts for the further term of yrs to commence from the expiration of the term hby granted at the same yrly rent and subject to the like covts provisoes and agts as are contd in these prests the sd (*lessee*) his exs, &c. exting a counterpart thof and also paying a fine or sum of £ — ' If there is to be a further renewal, see § 13; then say, 'And at the like request costs and chas shall and will at the expiration of such furr term of yrs grant a furr lease of the same preses at and under the same yrly rent and subject, &c. and so from time to time at the like request, &c. at the expiration of every such renewed lease of the sd preses grant the furr term of yrs to commence from the expiration of every such renewed lease until the full term of 99 yrs to be computed from the commencement of this present lease he the sd (*lessee*) his exs, &c. always paying, &c. If the lessor covenant to pay the taxes, then, instead of the clauses in the text respecting the taxes, say, 'And also that he the sd (*lessor*) his hrs and ass shall and will from time to time and at all times hraft during the continuance of the term hby granted well and truly pay all rates duties chas and assessments whater parliamentary parochial or orwise that shall or may be charged rated or imposed on the sd hby demised preses and thereof and therefrom save harmless and keep indemnified the sd (*lessee*) his exs ads and ass.' If the lessor covenant to suspend the rent and to repair, and rebuild in case of fire, instead of the exception in the text for abatement of the rent and rebuilding in case of fire, and the covenant to insure, say, 'And also in case the sd preses hby demised shall be destroyed or damaged by fire tempest or any other accident the rent herein reserved shall be suspended or abated until the sd preses shall be rebuilt and made fit for the habitation of the sd (*lessee*) his exs, &c. And that the sd (*lessor*) his hrs or ass shall forthwith with all proper and convenient speed cause the same to be rebuilt or repaired so and in such good and substantial manner that the same may be as commodious in all respects as they were
- To pay taxes.*
- To repair, rebuild.*

[*Provided (a) always* and it is hby mutually decld and agrd that if the sd (*lessee*) his exs ads or ass shall be desirous of putting an end to this demise at the expiration of seven or fourteen years and of such his or their desire shall give six months notice in writing to the sd (*lessor*) his hrs or ass in such case upon paymt of all arrears of rent and performance of all the covenants herein reserved and contd on the part of the lessee to be pd done performed and kept this present indre of lease and every clause or thing hncontd shall cease determine and be utterly void any thing hncontd to the contrary thof in any wise notwithstanding] *In Witness, &c.*

From
Year to
Year.

Determina-
tion.

Lease of a House (with or without the Furniture) for a Year, and so from Year to Year, by way of Agreement.

Obs. As to when an agreement will have the effect of a lease, see Pref. § 2.

Memorandum of an agrt made, &c. Betn (lessor) of, &c. of the one pt, &c. The sd (lessor) doth hby agree to demise and let unto the sd (lessee) and the sd (lessee) doth agree to take of him the sd (lessor) All that, &c. togr with the yard garden orchard and appts [and the goods fixtures and things mentioned in the schedule hereunder-written] for one whole year from thence next ensuing And at the expiration of the sd term from yr to yr so long as the sd pties shall agree with six mths' notice to be given on either side after the first year at and under the yrly rent of £— clear of all taxes assessments and deductions whatsr and paye quarterly on the four usual feasts, &c. the first payment to be made on the day of next ensuing And the sd (lessee) doth hby covt and agree with the sd (lessor) his hrs and ass that he the sd (lessor) his exs or ads shall and will well and truly pay or cause to be pd the sd yrly rent as the same is hnbefe reserved to be pd and

Agreement
to let, &c.

Term.

Rent.

Covenants.

before such destruction or damage happened.' As to the determination of the term, see § 15.

(a) If the proviso be for either the lessor or the lessee to determine the lease, say, '*Provided always* and these prests are upon this condon that it shall and may be lful to and for either the sd (*lessor*) his hrs or ass or the sd (*lessee*) his exs ads or ass to determine and make void this lease at the expiration of the first seven or fourteen years of the sd term of yrs hby granted on causing six months' previous notice in writing for that purpose to be given to or left for the other of them his hrs exs ads or ass at his or their then usual place of abode anything hncontd, &c. *In Witness, &c.*

For Lives. also all taxes assessments and deductions which are or shall be paye in respect of the sd demised preses *And also* shall and will from time to time during the sd term at his and their expense so often as occasion shall require sufficiently repair the sd demised preses and all and every the hedges ditches and gates belonging thereto and keep the same in good and tenantable repair (damages by fire storm or tempest only excepted) and the same so well and sufficiently repaired and maintained at the expiration or or. sooner determination of the sd term shall and will peaceably and quietly yield up [and also all such goods as are mentd in the schedule hereunder-written shall and will leave unto the sd (*lessor*) his hrs and ass in as good plight and condon as they are now in (reasone use and wear thof and casualties by fire only excepted)] *And also* that he the sd (*lessee*) his exs, &c. shall not nor will lop top cut down or destroy the trees shrubs or plants in or upon the sd preses or any pt thof at any time during the sd term without the consent of the sd (*lessor*) his, &c. *And* the sd (*lessor*) for himself, &c. (covt for quiet enjoyment)

Lease for Three Lives of a Dwelling-house.

Obs. As to leases by ecclesiastical persons, see Pref. § 3.

This Indre made, &c. Betn the very Rev. the Dean and Chapter of the Collegiate Church of in the co. of of the one pt and (*lessee*) of, &c. of the or. pt

Testatum. *Witnesseth* that for and in conon of the lful surr to the sd (*lessors*) of a lease bearing date, &c. and made betn the sd (*lessors*) of the one pt and W A therein described of the or. pt being a lease made and granted by the sd (*lessors*) to the sd W A his hrs and ass for the three lives thin-named and for and during the life of the longest liver of them of the tent or dwelling-house and heredts hnaftir described and intended to be hby granted and demised and also in conon of a certain fine free gift or sum of £ — of lful, &c. to the sd (*lessors*) well and truly pd by the sd (*lessee*) upon or immly before the exon of these prests the rect of which, &c. They the

Grant. sd (*lessors*) for themselves and their successors *Have* granted demised and to farm letten and by, &c. *All that, &c.* And also the use of a certain road feet wide beginning at the S. W. corner of the sd preses hby granted and demised all which sd dwelling-house and heredts hnbefe described and expssd to be hby granted and demised are also furr described and delineated on the plan or grd plot thof in which appears in the margin

of these prests *To Have and to Hold* the sd tent or dwelling-house herodts and preses hby granted and demised or intended so to be and evy pt and pcl thof with their and evy of their appts unto the sd (*lessee*) his hrs and ass for and during the natural lives of E P of, &c. now aged about yrs M D of, &c. now aged about yrs and R S of, &c. now aged about yrs and for and during the natural life of the longest liver of them *Yielding and Paying* therefore yrly and evy yr for and during the natural lives of the sd (*nominees*) and the life of the longest liver of them unto the sd (*lessors*) their successors and ass the yrly rent or sum of £ — of, &c. by equal half-yrly payments at, &c. *And* if it shall happen that the sd yrly rent of £ — or any pt thof shall be behind and unpd for the space of 20 days next after either of the sd days of paymt on which the same ought to be pd as afd it shall be lful for the sd (*lessors*) their successors and ass, &c. (covt for re-entry) *And* the sd (*lessee*) for himself his hrs, &c. doth hby covt, &c. with and to the sd (*lessors*) and their successors in manner following that is to say That he, &c. the sd (*lessee*) his exs, &c. shall and will yrly and evy yr during the continuance of this term, &c. (covt to pay rent) *And also* shall and will discharge all and all manner of taxes assessments rates and impositions whatar with which the sd demised preses shall be charged and well and sufficiently save harmless and keep indemnified the sd (*lessors*) their successors and ass of and from the paymt thof or of any pt thof *And also* shall and will, &c. (covt to repair, &c.) *And* at the end or expiration of the term of the natural lives of the sd (*nominees*) or or. sooner determination of this demise shall and will peaceably and quietly surrender and give up the posson of the sd preses so well and sufficiently repaired as afd unto the sd (*lessors*) their successors and ass *And* (a) the sd (*lessors*) have ordained nominated constituted and appted and in their place and stead have put and deputed A B their true and lful atty for them the sd (*lessors*) and in their name and place to enter into the sd hby granted and demised preses or any pt thof in the name of the whole to take peaceable and quiet posson and seisin and after quiet posson and seisin thof so had and taken for them the sd (*lessors*) of and in the sd preses or any pt or pcl thof in the name of the whole to deliver the same unto the sd (*lessee*) his hrs or ass or his certain atty in that behalf lfully authorized and duly appted to rece the

For Lives.

Habendum.

Term for lives.

Redden-
dum.

Clause of re-entry.

Covenants from lessee.

Power of attorney to give livery of seisin.

(a) As to the necessity of livery of seisin, in the case of a lease for life or lives, see Pref. § 15.

By
Mortga-
gor and
Mortga-
gee.

same And the sd (*lessors*) do hby ratify allow and confirm all and whater their sd atty shall lfully do or cause to be done for them and in their names in or about the preses according to the purport true intent and meaning of these prests as fully and effectually as they the sd (*lessors*) might or could do if psly present and did and exted the same themselves and these prests had not been made and exted *In Witness* whof to the one pt of these indres remaining with the sd (*lessee*) the sd (*lessors*) have set their common seal and to the or. pt thof remaining with the sd (*lessors*) the sd (*lessee*) hath set his hand and seal the day and yr first above-written

Lease of an Inn, in which the Mortgagor joins.

Obs. As to leases by mortgagors and mortgagees, see Pref. § 3.

Demised.

This Indre made, &c. Betn A B and C D of, &c. common brewers and copartners who are also mortgagors in posson of the capital messe tent or inn, &c. hnaft described of the first pt (mortgagor) of, &c. of the second pt and (lessee) of, &c. of the third pt Witnesseth That for and in conson of the rents covts condons and agrts hnaft reserved and contd and which on the pt and behalf of the sd (*L*) his exs, &c. are or ought to be pd done and performed They the sd A B and C D at the request and by the direction and apptmt of the sd (*M*) testified by his being a party to and exting these prests And also the sd (*M*) *Have* and each and evy of them *Hath* demised leased set and to farm let and by these prests *Do* and each and evy of them *Doth* demise, &c. unto the sd (*L*) his exs, &c. *All that* capital messe tent or inn commonly known by the name or sign of the B. B. Inn with the houses out-houses tap-room coach-houses stables yards buildings gardens and appts thereto belonging situate, &c. togr with all ways, &c. *To Have and to Hold* the sd capital messe, &c. unto the sd (*L*) his exs, &c. for and during, &c. determinable nevas by the sd (*L*) his exs, &c. as hnaft mentd *Yielding and Paying* therefore yrly and evy yr during such part of the continuance of the sd term hby granted as the sd A B and C D shall continue mortgagees in posson of the sd demised preses for the principal sum afd unto them the sd A B and C D their exs, &c. the yrly rent or sum of £ — being lful int at the rate of, &c. upon and for their sd mortgage debt by four quarterly paymts at the times hnaft more parlarly mentd for paymt thof And after paymt

of such int due and to become due upon the sd mortgage as afd *Then also yielding and paying* unto the sd (*M*) his hrs and ass yrly and evy yr during the continuance of the sd term hby granted the furr yrly rent or sum of £ — of, &c. making togr the sum of £ — both which sd yrly rents or sums are to be pd and paye on the four most usual feasts, &c. *Provided always* and if it shall happen that the sd yrly rents or either of them or any pt thof hnbe reserved and made paye shall be behind and unpd by the space of 21 days next after the same shall resply become due and no sufficient distress or distresses can or may be had or taken in or upon the sd demised preses or any pt thof where in to levy and whby to satisfy the sd respive rents and all arrears thof togr with the costs of such distress and distresses Or if the sd (*L*) his exs or ads do or shall at any time or times during the continuance of the sd term hby granted let set or assign over these prests or the term este or preses hby granted or orwise part with his int therein or thereto to any psn or psns whatsr witht the license and consent of the sd (*M*) his hrs, &c. in writing under his or their hand or hands for that purpe first had and obtained Or if these prests and the sd preses herein mentd or any pt thof shall become assignable by means of any fiat of bankruptcy agst or of the insolvency of the sd (*L*) during the continuance of the sd term hby granted Then and thenceforth in all or any of the sd cases it shall and may be lful to and for the sd (*M*) his hrs and ass into and upon the demised preses or any pt thof in the name of the whole to re-enter and the same preses reposess and enjoy as in his or their first or former este and the sd (*L*) his exs or ads and all or. occupiers of the sd preses or any pt thereof from thence utterly to expel put out and remove any thing herein contd to the contrary thof in any wise notwithstanding And the sd (*L*) for himself his hrs exs, &c. doth hby covt, &c. with, &c. the sd *A B* and *C D* their exs, &c. and also with and to the sd (*M*) his exs, &c. by these prests in manner following that is to say That he the sd (*L*) his exs, &c. some or one of them shall, &c. during, &c. pay or cause, &c. unto the sd *A B* and *C D* their exs, &c. so long as they shall continue mortgagees of the sd demised preses the sd yrly rent or sum of £ — hby reserved And also pay or, &c. unto the sd (*M*) his hrs, &c. the afd yrly rent or sum of £ — hnbe also reserved as the same shall resply become due and paye, &c. according to the true intent and meaning of these prests *And also* that he the sd (*L*) shall, &c. (pay all taxes) *And furr* that he

*By
Mortga-
gor and
Mortga-
gee.*

Proviso for
making
void the
demise.

Covenants
from lessee.

To pay
rent.

To pay
taxes, &c.

*By
Mortga-
gor and
Mortga-
gee.*

To remove
buildings,
&c.

To repair.

the sd (L) his exs, &c. shall and will at his and their own proper costs and chas wholly take down and remove the stables called, &c. now standing and being in the back yard of and belonging to the sd hby demised preses and then forthwith erect and build on the sites thereof resply one or more good and similar stable or stables of like or larger dimensions or description in a good substantial and workmanlike manner to the approbation of the sd (M) his hrs exs ads surveyors and ass *And also* that he the sd (L) his exs, &c. shall, &c. at his, &c. within the first six yrs of the sd term hby granted take down and remove the dwelling-house and buildings pt of the sd hby demised preses now in the occupation of W W called, &c. and then forthwith erect build and finish on the site thof a good and sufficient dwelling-house consisting of eight rooms in a good substantial and workmanlike manner upon being pd the sum of £ — at the end of the first six yrs of the sd term hby granted by the sd (M) his exs, &c. agreeably to his covt hnafr contd *And also* that he the sd (L), &c. at his and their own like proper costs and chas from time to time shall, &c. well and sufficiently repair maintain, &c. the sd capital messe or tent, &c. and all erections and buildings now or hnafr to be erected and set up thereon by him togr with all alterations and improvements thereon and all the privies sinks drains gutters and all or. the preses with their respive appts hby demised in by and with all and all manner of needful and necessary reparations paintings and amendments whater as well outside as inside and the same and evy pt thof being so well and sufficiently repaired, &c. shall and will at the end or sooner determination of this demise quietly and peaceably leave surrender and yield up unto the sd A B and C D and (M) or one of them their hrs, &c. (casualties by fire and tempest excepted) *And furr* that the sd (L) his exs, &c. shall, &c. permit and suffer the sd (M) his hrs, &c. with or wtht workmen once in evy yr to enter into and upon the demised preses or any pt thof to view search and see the state and condon of the repairs thof and of all such decays and wants of repair as shall be then and there found to give or leave notice or warning in writing at the sd demised preses to or for the sd (L) his, &c. to repair and amend the same within three calr mths then next following within which sd space of time of three calr mths he the sd (L) his, &c. doth hby covt, &c. with, &c. the sd (M) his hrs, &c. to repair and amend the same accordingly *And also* that he the sd (L) his exs, &c. shall, &c. during the continuance of, &c. keep open and use the sd capital

messe tent or inn tap-room coach-houses stables and preses with the appts as and for an inn for the reception accommodation and entertainment of travellers guests and or. pns resorting thereto with horses cattle carriages or witht And also shall and will from time to time annually at known times for the purpe apply for and use his best endeavours to obtain all such licences at his or their own expense as are or may be necessary for carrying on and keeping the same preses open as and for an inn as afd And shall not nor will at any time during, &c. do or suffer to be done any act matter or thing whatsr whby or by means whereof any licence or licences so to be granted shall or may be forfeited or become void or liable to be taken away suppressed or suspended in any manner howsr And furr that he the sd (L) his exs, &c. shall and will from time to time during the first seven yrs of the term hby granted purchase and take of and from the sd A B and C D and their exs, &c. all such strong beer ale and table beer as shall be required bought had vended disposed and made use of in upon or about the afd inn tap-room and preses and shall not buy vend or dispose or make use of any or. strong beer ale and table beer in upon and about the same preses than such as shall be bought of the sd A B and C D their exs, &c. during the term afd if the sd A B and C D their exs, &c. do and shall serve and deliver in such strong beer ale and table beer at the same prices as to their or. customers and of the like good quality but no longer or orwise And the sd (M) for himself his hrs, &c. doth hby covt, &c. with, &c. in manner, &c. That he the sd (L) his exs, &c. or either of them paying the afd yrly rents or sums of money hnbefe mentd and appted for paymt thof and observing performing fulfilling and keeping all and singr the covts clauses condons and agrts hnbefe mentd and which on the tenant or lessee's part are and ought to be paid performed observed fulfilled and kept shall and may peaceably, &c. have, &c. the sd capital, &c. and all and singr or. the preses hby demised with their and evy of their appts for and during all the sd term hby granted determinable as hnastr mentd witht the lful let suit trouble denial molestation eviction ejection interruption or or. disturbance whatsr of the sd A B and C D and (M) respy or either of them their and either of their hrs, &c. or of or by any or. pen or pns whomsr lfully claiming or to claim by from or under them or any or either of them or by and through their or any or either of their acts means assent consent deft neglect or procurement And also that he the sd (M) shall and will

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Determi-
nation upon
notice.

well and truly pay or, &c. unto the sd (L) his exs, &c. the sum of £ — at the end of the first six yrs of the sd term in case the sd (L) his, &c. shall have taken down the sd dwelling-house and buildings now in the occupation of W W and shall have erected built and finished on the site thof one good and sufficient dwelling-house consisting of eight rooms in a good substantial and workmanlike manner agreeably to the covt of the sd (L) for that purpe hubeft contd And lastly it is hby covtd and agrd by and betn all the sd pties hereto and it is the true intent and meaning of them and of these preats that if the sd (L) his exs, &c. shall be minded and desirous to quit yield and give up the posson of the sd capital messe, &c. hby demised at the end of the first seven yrs of the sd term hby granted or give or leave full six mths' previous notice in writing under his or their hand or hands of such his or their mind and intention unto or for the sd (M) his hrs, &c. at his or their then place of abode then and immly after the expiration of the sd term of seven yrs this present indre and the term and este hby created shall cease determine and become utterly void to all intents and purps whatsr any thing herein-contd to the contrary thof in any wise notwithstanding In Witness, &c.

Lease of a House and Grounds by Tenant for Life under a Power, and Mortgage to a Lessee.

Power to
demise.

Demise.

This Indre made, &c. Betn (mortgagee) of, &c. of the first pt (tenant for life) of, &c. of the second pt and (lessee) of, &c. of the third pt Witnesseth That the sd M at the request and by the direction of the sd (T) testified, &c. And also the sd (T) in pursuance of a power to him for that purpe given and reserved in and by a certain indre of settlmt made on his marre with S his now wife bearing date, &c. and by force and virtue thof and of evy or. power in that behalf enabling him thereto Have and each of them for and in consord of the rents and covts hnaft reserved and contd and by and on the pt of the sd (L) his exs and ads to be pd done and kept Hath demised leased set and to farm let And by this present indre under the hand and seal of the sd (T) and exted by him in the presence of two credible witnesses Doth demise, &c. unto, &c. All that, &c. commonly called or known by the natne of, &c. with the barns stables outhouses yards gardens and apts thereunto belonging And also all those sevl closes pieces or pcels of arable meadow or pasture land or grd adjoining or lying near or contiguous thereto and now held

and enjoyed therewith And also the water corn-mill and stream belonging thereto All which sd sevl lds are situate lying and being in, &c. and containing, &c. And all ways watercourses prfts privileges liberties advantages emoluments rights members and apts whatsr to the sd messe tent or dwelling-house with buildings pieces or pcls of grd belonging or in anywise appertaining [*except and always reserved* out of this present lease unto the sd (T) and his ass during so long of the sd term as he shall happen to live and after his dece to (a) such psn or psns as shall be entitled to the freehold and inhance of the sd preses in posson all timber trees and or. trees except the fruit trees for their fruit only and the pollards for their lops and tops only which now are or at any time during the continuance of this demise shall be standing growing or being upon the sd preses or any pt thof with full liberty of ingress egress and regress to and for the sd (T) and his ass or such or. psn or psns as shall be entitled as afd and his and their workmen and ors. with horses carts carriages or orwise into the sd demised preses or any pt thof to come and to fall and stock the sd trees in and upon the sd preses and to cleave cord hew square saw lay and place the same timber and trees and to make coal-pits and saw-pits for the sawing thof and to get and take turves and make coal fires and heaths and to do evy or. act and thing which shall be necessary and requisite for the charcoaling converting and working thof and to take and carry away the same making reasone satisfaction to the sd (L) his exs and ads for any damage which he the sd (L) his exs, &c. may sustain thby in corn grain and mowing grass *And also and except and always reserved* out of this demise to the sd (T) and his ass or such or. psn, &c. his her their or any of their workmen or ors during the continuance of this demise at all seasonse times in the yr full and free liberty to come and be in and upon the sd demised lds and preses and in the hedge-rows and fences thof to set and plant such and so many young trees as he they or any of them shall from time to time think proper and to do evy needful act to fence in and preserve the same And also free liberty to enter into and upon the same preses at all seasonse times in the day to view the condon thof *And also except and always reserved* out of this demise or lease unto, &c. all bares partridges pheasants birds

Under a Power.

Exception.

Liberty of ingress &c.;

to fall trees, &c.;

to set other trees;

to hunt, &c.

(a) Or, 'to the lessor for the time being' As to the form of the exception and reservation to tenant for life under a power, see Pref. § 11.

<i>Under a Power.</i>	and beasts of warren or chase which at any time during the continuance of this demise are or shall come be bred or found in or upon the sd demised preses And all fish-ponds or fishing places there with full and free liberty for the sd (T) or his ass and such or. psn, &c. his or their agents friends and followers to enter into and upon the sd demised preses with horses dogs guus nets and or. engines to hunt hawk and fowl and for the purpose of fishing to draw down or let dry any pits ponds or fishing places making good any damage which the sd
To dig mines;	(L) his exs, &c. may sustain thby <i>And also except and always reserved</i> out of, &c. unto, &c. all mines and minerals that are or shall or may be found in or upon the sd demised preses with full liberty and power to search for dig get have take and carry away the same <i>And also except and always reserved</i> out of, &c. unto, &c.
to plant on certain parts of the demised premises.	upon giving mths' previous notice in writing of such his or their intention unto the sd (L) his exs, &c. or leaving the same at his or their usual place of abode liberty to enter upon and take into his or their posson any pt or pts of the demised lds as he or they shall think proper not exceeding in the whole acres for the purpe of planting young trees therein and thereon and to fence in and enclose the same and to use and enjoy the sd excepted preses in all respects as if this demise had not been made he the sd (T) and his ass and the lessor of the sd preses for the time being from the time or times of evy such entry yrly and evy yr during the then remr of this demise making an allowance or abatement unto the sd (L) his exs, &c. out of the rents hby reserved the sum of £ — for each acre and so in proportion for any less quantity than an acre as shall be so entered upon and taken for the purpe of planting as afd]
Habendum.	<i>To Have and to Hold</i> the sd messe tent or dwelling-house mill buildings pieces and pcels of ld or grd and all and singr or. the preses hby demised or intended so to be with their and evy of their apts (except as hnbeft excepted) unto the sd (L) his, &c. from, &c. for and during the term of 7 (' 14 or 21') yrs subject nevss to the provisoes condons and agrints huafter contd
Term.	<i>Yielding and Paying</i> therefore yrly and evy yr during such pt of the continuance of the sd term hby granted as the sd (M) shall continue mtgee in posson of the sd demised preses unto the sd (M) his exs, &c. the yrly rent or sum of £ — being lful int at the rate of, &c. upon and for his sd mtge debt by four, &c. and <i>also yielding and paying</i> , &c. unto the sd (T) and his ass or to such or. psn or psns as shall be entitled to the freehd and inhance of the sd preses during the first
Reservations.	

yrs of the sd term hby demised the rent of £ — and yrly and evy yr during the residue of the sd term the yrly rent or sum of £ — of lful, &c. upon, &c. (see *gen. precedent*) the first paymt, &c. thof to be made witht any deduction, &c. *And also Yielding and Paying* unto the sd (T) and his ass or the lessor, &c. over and above the yrly rent hby reserved on or at the days and times and in the manner afd during the continuance of this demise wherein the sd (L) shall sow set or plant any flax hemp rape madder or potatoes the furr yrly rent of £ — for evy acre and so in proportion for any less quantity than an acre which shall be so sown set or planted *And also Yielding and Paying* therefore, &c. unto, &c. over and above the sd yrly and or. rents hnbe reserved for evy acre of the meadow or ancient mowing ground hby demised that he the sd (L) his exs, &c. shall dig plough break up or convert into tillage the furr yrly rent of £ — and so in proportion, &c. such paymt to be made on such of the sd days or times of paymt as shall next happen after such digging ploughing breaking up or converting the same into tillage and to continue paye until such time as the sd lds shall be again converted into meadows *And also Yielding and Paying* unto the sd (T) and his, &c. or the, &c. over and above the sd yrly rents hnbe reserved yrly and evy yr after the first yrs of the sd term hby demised wherein the sd (L) his exs or ads shall dig plough break up and have in tillage more than the quantity of acres of the sd demised lds and preses the furr yrly sum of £ — of like lful money for each and evy acre thof exceeding the sd quantity of acres that shall be so dug ploughed broke up or had in tillage as last mentd and so in proportion for any greater or less quantity than an acre such last mentd paymt to begin and be made on such of the sd days or times of paymt as shall next happen after such digging ploughing breaking up or having in tillage as afd and to continue paye during the then residue of the sd term *And the sd (L) for himself, &c. doth covt, &c. with the sd (M) and also with and to the sd (T) his hrs and ass and such or. psn or psns who shall or may be successively entitled to the freehd or inhance of the sd demised preses in posson as afd in manner following that is to say That he the sd (L) his exs, &c. shall and will during the continuance of the sd term well and truly pay or cause, &c. unto the sd (M) his exs, &c. so long as he shall continue mortgagee the sd yrly rent or sum of £ — hby reserved *And also pay or cause, &c. unto the sd (T) or, &c. the sd sevl rents hnbe reserved**

Under a Power.

Additional rent of £ — for every acre of flax, &c. that is sown.

Rent of £ — for every acre of meadow ground broken up.

Covenants from lessee.

Under a Power. as the same shall respaly become due, &c. *And also* shall, &c. (covt to pay taxes, see *gen. precedent*) And shall and will at his own costs and chas uphold sustain maintain amend support repair scour clean paint glaze preserve and keep in good and substantial repair the sd messe or tent and all and singr the outhouses barns stables cowsheds pigsties and fold-yard and all or edifices and buildings already erected or which shall during, &c. be erected or built upon the sd preses and the hedges mounds fences gates wickets stiles rails posts and pales now being or hrafrt to be set planted and erected and made And all and evy the same messe, &c. in such good sound and substantial order and repair togr with the quiet and peaceable posson thof at the expiration or other sooner, &c. leave and deliver up unto the sd (*M*) his, &c. if he shall so long continue mtgee of the sd preses or unto the sd (*T*) his, &c. And also that it shall and may be lful for the sd (*T*) and his ass or for the lessor for the time being (to enter and view repairs, see *gen. precedent*) *And also* that he the sd (*L*) his exs or ads shall and will from time to time and at all times during the continuance of this demise use manage cultivate and employ all and evy the afd lds and preses in a good and husbandlike manner and in a due and regular course of husbandry and not wilfully or willingly waste destroy impoverish or make barren or suffer the same or any pt or pts thof to be wasted, &c. or any of the timber or or. trees which now are or shall or may hrafrt during, &c. be planted or growing upon the sd demised preses or any pt or pts thof to be wasted destroyed impoverished or made barren by over much tillage or orwise and at all times shall and will do his and their best endeavours to preserve the same from waste spoil and destruction And also that he the sd (*L*) his, &c. shall and will from time to time during, &c. when and so often as the sd hby demised lds or any pt thof shall have gone through a regular and due course of tillage lay down the same in a husbandlike manner with a usual and sufficient quantity of clover or or. grass seeds *And also* that he the sd (*L*), &c. shall, &c. during, &c. make summer fallow and sow with turnips all the clover leys that shall have been broken up and sown the preceding yr with grain before another crop shall be taken therefrom *And also* in and upon the same lands and preses shall and will spend use lay and employ all the hay straw fodder-dung soil muck manure and compost that shall and may from time to time arise come grow or be made in and upon the sd preses And at the end of this demise shall and

To till lands
in a hus-
bandlike
manner.

To lay down
with clover
or grass,
&c.

To summer
fallow, &c.

To use ma-
nure, &c.

will leave upon some convenient pt or pts of the sd preses for the use of the sd (T) his, &c. of such or. psn, &c. all the hay straw fodder dung soil muck manure and compost except tons of hay which the sd (L) his exs and ads is and are to have liberty to carry away sell or orwise dispose of And also that it shall and may be lful for the sd (T) or the lessor for the time being and his or their agents or future tenants at next before the expiration or sooner determination of the sd term to enter upon and plough up all such parts of the sd demised lds as shall the preceding year have been sown with winter corn or grain (a) And furr that he the sd (L) his, &c. shall not, &c. (assign, &c. see gen. precedent) Provided Always, &c. (proviso for re-entry on nonpayment of rents, &c.) Provided also and these prests are upon the express condon that if the sd (T) and his ass or such or psn or psns as for the time being shall or may be entitled to the freehold and inhance of the sd preses in posson as afd or the sd (L) his exs or ads or any or either of them shall be minded or desirous to determine and make void this present demise or lease at the end of the first yrs or yrs of the sd terms of yrs and shall signify such his or their intention to the or. or either of them by notice in writing to be given or left at his or their last or most usual place or places of abode at least one yr before the end of the sd yrs or yrs That then and in such case from and after the end of the sd yrs or yrs of the sd term on payment and performance of all rents covts and duties to be pd done and performed This indre and evy clause, &c. herein contd shall cease determine and be utterly void to all intents and purps whater any thing herein contd to the contrary notwithstanding

Under a Power.

(a) And also that he the sd (L) his, &c. shall, &c. sign all such notices forewarning any psn or psns from trespassing hunting (shooting or sporting upon the sd demised preses as he the sd (T) and his ass or such or. psn, &c. and his agents shall think proper and that it shall and may be lful for the sd (T) his, &c. to use the name or names of the sd (L) his, &c. in any action or actions which he or they shall think proper to commence sue or prosecute agst any psn or psns whomer for hunting coursing shooting or sporting upon the sd demised preses or any pt thof He the sd (T) his, &c. indemnifying and saving harmless the sd (L) his, &c. from and agst all costs chas and exps which he or they shall or may be at or put unto for or by reason or on acct of any such action being brought commenced or prosecuted in his or their name or names as afd And that he the sd (L) his, &c. shall not nor will release or discharge any such action or actions which by the direction of the sd (T) his, &c. shall be brought or commenced in the name or names of him the sd (L) his, &c. agst such trespassers as afd And furr, &c. (as above.)

To sign notices, &c. against trespassers.

And join in actions.

Under a Power. ing (a) And the sd (T) for himself his hrs exs ads and ass doth hby covt, &c. that is to say That he the sd (T) or his ass during his lifetime or after his dece such psn or psns as are entitled as afd shall and will provide for and allow unto the sd (L) his, &c. on the sd demised preses or within miles distance therefrom necessary rough timber on the stem brick tiles and lime for such repair of the sd demised messe and presses *And also* that for and notwithstanding the exception afd or any clause or thing thin contd to the contrary it shall be lful for the sd (L) his exs ads and ass to cut and plash the hedges to the sd demised preses and to lop such trees thereon as have been usually lopped (provided they be not less than 9 yrs growth) and to take the wood thof from such hedges and fences to his and their own use *And also* (covenant for quiet enjoyment witht the interruption, &c. of mortgagee or tenant for life or such or. psn, &c. see last precedent)

Covenants from lessor.

To allow lessee rough timber, &c.

In Witness, &c.

Agreement by Trustees for letting Premises during the Minority of a Child.

Oba. 1. As to the force and efficacy of such a deed, see *Agreements for a Lease.*

2. And as to leases by executors, trustees, and guardians, see Pref. § 3.

Memorandum It is this day of agrd by and betn (trustees) of, &c. trustees named in and by the last will and testmt of I W late of, &c. decd of the one pt and (lessee) of, &c. as follows That the sd (T) as exs and trustees as afd do hby agree to let unto the sd (L) his exs and ads *All that* close, &c. *To Hold* the same to

Agreement from trustees to let.

(a) If the tenant for life has previously covenanted to do substantial repairs, then add, ' *Provided also* and it is hby decl'd and agrd by and betn the sd pties to these prests and parlarly the sd (T) doth hby for himself and his ass and such or. psn or psns, &c. covt, &c. with, &c. the sd (L) his exs ads and ass that in case the (T) or his ass or such or. psn, &c. or psns as afd shall determine and make void this present demise or lease at the end of the first yrs or yrs of the sd term of yrs pursuant to the proviso or agrmt hnbefe for that purpe contd Then he the sd (T) or his ass or such or. psn or psns as afd shall and will from and imimy after the end or expiration of the first yrs or yrs of the sd term of yrs well and truly pay or cause to be pd unto the sd (L) his exs ads or ass any sum or sums of money not exceeding £ — which the sd (L) his exs, &c. shall have actually laid out and expended during the sd term of yrs such sum or sums of money to be settled by two indifferent persons one to be chosen by the sd (T) or his, &c. and the or. by the sd (L) or his, &c. or in case they cannot agree by a third psn to be chosen by the sd arbitrators

the sd (L) his, &c. from the day of now next ensuing for the term of yrs fully to be complete and ended if H the daur of the sd I W decd shall so long live but if she should happen to die at any time before the expiration of the sd term then these prests so far as relates to that term shall immly cease and become null and void *Subject nevss* to the paymt by him the sd (L) his exs and ads of the yrly rent of £— paye half yrly on the day of and day of in evy yr and to such proportion of any such half-yrly paymt as shall accrue up to the day of the dece of the sd H W in case she shall happen to die before the sd term of yrs shall be accomplished or unto such furr day as be the sd (L) his exs, &c. shall be permitted to remain in posson of the sd preses *And also subject* to his the sd (L) his exs or ads paying all tithes rates and taxes of what nature or kind soever which now are or which shall or may during the sd term of yrs be taxed rated charged or imposed by authority of Parliamt or orwise upon the sd preses the ld-tax only excepted *And that* the sd (L) his exs or ads shall have the waste wood of the sd preses to be used thereon *And the sd (L) doth hby* for himself, &c. agree with the sd (T) to take the sd preses and become tenant thof from the day of now next ensuing and to pay or cause, &c. to them the sd (T) or the survor of them or the exs ads or aas of such survor the afd rent or yrly sum of £— on the days hnbefe reserved and appted for the paymt thof and also all tithes taxes rates and assessments thereon as afd except the ld-tax *And also* to cleanse and scour the trenches and ditches and repair and make good the hedges and fences at his own costs and chas during all the sd term and shall not nor will carry off from the preses any of the hay made thereon but shall cause the same to be consumed thereon *And also that* he the sd (L) his exs or ads shall and will in case the sd H W shall happen to die at any time before the expiration of the sd term of yrs upon notice thof in writing from the sd (T) or the survor, &c. given to or left for him the sd (L) his exs or ads on the sd preses peaceably and quietly forthwith leave and surrender up to them all the sd preses *And also* shall and will twice or oftener in evy yr during the sd term permit and suffer them the sd (T) or the survor, &c. or any or. pen by their authty to enter and view the same preses and examine the state of the repairs thof and to repair and amend any deft of which they shall either give or leave for him or them notice in writing *And* the sd (T) do hby agree that he the sd (L) paying the

By
Trustees.

Agreement
from lessee
to take
premises.

To cleanse
and repair.

To surren-
der upon
notice.

Quiet en-
joyment.

By Tenants in Common. sd rent and performing all these condons shall quietly enjoy the sd preses for the term of yrs if the sd H W shall so long live. *In Witness, &c.*

Lease by Tenants in Common. (Variations where they are Joint Tenants.)

Obs. As to leases by tenants in common and joint-tenants, see Pref. § 3.

Consideration. This Indre made, &c. Betn (a) A B of, &c. of the first pt C D of, &c. of the second pt and E F of, &c. of the third pt *Witnesseth* That for and in conson of the rents covts and agrmts hnaft reserved and contd and which by and on the pt and behalf of the sd E F his exs ads and ass are to be pd done and performed (b) He the sd A B as to one undivided moiety or half pt the whole into two equal pts to be considered as divided of all that messe or tent with the apts hnaft parlarly mentd and described and the sd C D as to one undivided moiety or half pt the whole into two equal half pts to be considered as divided of all that the sd messe, &c. hnaft described *Have* and each of them *Hath* (according to their sevl and respive shares and proportions afd) demised, &c. and by these prests *Do* and each of them *Doth* demise, &c. unto the sd E F his exs ads and ass all that messe, &c. (pcls) *To Have*, &c. the sd messe, &c. unto the sd E F his, &c. from the day of for, &c. the term of yrs to commence from last *Yielding* (c) and *Paying* unto the sd A B his hrs and ass the sum of £ — being one moiety or equal half pt of the sum of £ — and *Yielding and Paying* unto the sd C D his hrs and ass the sum of £ — being the or. or remaining moiety of the sd sum of £ — And the sd (lessee) for himself his hrs, &c. doth, &c. covt, &c. with, &c. (d) each of them the sd A B and C D and their respive hrs and ass in manner following That he the sd E F his exs, &c. shall and will pay (e) to each of them their and each of their respive hrs and ass the yrly rent or sum of £ — hby reserved, &c. And also shall, &c. (covenant to pay taxes and repair, &c. see *gen. precedent*) And also that it shall be lfal for (f) the sd A B and C D or either of them

Demise of each moiety.

Covenants from lessee.

(a) If joint tenants, say, ' Betn (lessors) of, &c. of the one pt and E F of, &c. of the or. pt'

(b) They the sd (lessors) *Have* demised, &c. and *Do*, &c.'

(c) *Yielding*, &c. unto the sd (lessors) and their respive hrs and ass the sum of £ —'

(d) ' With, &c. the sd (lessors) and their respive hrs, &c.'

(e) ' Pay to the sd (lessors) and their respive hrs and ass, &c.'

(f) ' For the sd (lessors) and their respive hrs, &c.'

their or either of their hrs, &c. to enter and view repairs And (a) each of them the sd A B and C D as to and concerning his moiety este and int for himself and his respive hrs, &c. doth, &c. covt, &c. with, &c. the sd E F that he the sd E F paying, &c. shall peaceably, &c. have, &c. for, &c. the sd term witht the let, &c. of them the sd A B and C D or either, &c. *Provided always*, &c. that in case, &c. it shall and may be lful for them the sd A B and C D or either, &c. (to re-enter, see *gen. precedent*) *In Witness*, &c.

By Tenant
in Tail.

Covenant
from A B
and C D
for quiet
enjoyment.

Proviso for
re-entry.

Lease by Tenant in Tail. (Variations where it is a Tenant for Life and Remainder-Man joining.)

Obs. 1. As to leases by tenant in tail, under the statute, see Pref. § 3. If a tenant for life, and he in the remainder, join in a lease for years, by deed indented, this is the several lease of each party, with the confirmation of the other. Co. Litt. 45, a. *Milliner v. Robinson*, Moore, 682, pl. 939.

2. By the 3 & 4 W. IV. c. 74, no assurance by tenant in tail will be valid without enrolment, except a lease for any term not exceeding 21 years, to commence from the date of such lease, or from any time not exceeding twelve calendar months from the date of such lease, where the rent reserved is a rack-rent, or five-sixths parts of a rack-rent. It should seem, therefore, that a lease under the 32 H. VIII. not complying strictly with these conditions, must be enrolled under the provision of the 3 & 4 W. IV.

This Indre made, &c. Betn (b) (lessor) of, &c. of the one pt and (lessee) of, &c. of the or. pt *Witnesseth* That in conson of, &c. He (c) the sd (lessor) Hath demised, &c. and by, &c. *Doth* demise, &c. unto the sd (lessee) his, &c. *All that*, &c. with the apts (except (d) and always reserved the, &c. unto the sd (lessor) his hrs and ass) *To Have*, &c. the sd messe, &c. unto the sd (lessee) his, &c. from the day, &c. for, &c. the term of, &c. yrs *Yielding*, &c. (e) unto the sd (lessor) his hrs and ass yrly and evy yr, &c. during the sd term the

(a) 'And the sd (lessors) for themselves and their respive hrs exs, &c. do and each of them doth covt, &c.'

(b) 'Betn (tenant for life) of, &c. and (remainder-man) of, &c. of the one pt and (lessee) of, &c. of the or. pt'

(c) They the sd (T) and (R) *Have* and each of them *Hath* demised, &c.'

(d) Except, &c. unto the sd (T) and his ass during so much of the hby demised term as he shall happen to live and after his dece unto the sd (R) his hrs and ass, &c.'

(e) 'Yielding, &c. unto the sd (T) and his ass yrly and evy yr during so much of the sd term as he shall happen to live the yrly sum of £ — and after his dece for the residue of the sd term the same yrly sum of £ — to the sd (R) his hrs and ass.' As to the reservation, where it is a tenant for life, or tenant in tail, see Pref. § 11.

Of a Farm yrly rent or sum of £ — payable quarterly, &c. (see *gen. precedent*) And the sd (*lessee*) for himself, &c. doth hby covt, &c. with, &c. the sd (*lessor*) his hrs and ass in manner, &c. That he the sd (*lessee*) his, &c. shall, &c. during, &c. (a) the sd term, &c. pay, &c. unto the sd (*lessor*) And also shall, &c. (pay taxes, &c.) And also shall, &c. (repair, &c.) And also that it shall be lful for the sd (*lessor*) (b) his hrs and ass or his or their steward, &c. (to enter and view repairs, &c.) *Provided always*, &c. that if the rent, &c. shall be unpd for the space of days, &c. it shall be lful for the sd (*lessor*) his (c) hrs and ass, &c. (to re-enter, &c.) And the sd (*lessor*) (d) for himself his hrs and ass doth, &c. covt, &c. with, &c. the sd (*lessee*) his exs (covenant for quiet enjoyment, see *gen. precedent*.) *In Witness*, &c.

Lease of a Farm.

This Indre made, &c. Betn (*lessor*) of, &c. of the one pt and (*lessee*) of, &c. of the or. pt *Witnesseth* that in conson of the yrly [and other reuts] hnaft reserved and of the covts, &c. He the sd (*lessor*) *Hath* demised leased set and to farm letten and by these prests *Doth*, &c. unto the sd (*lessee*) his exs and ads *All that messe tent or farm-house late in the occupation of E B and those two cottages or tents now or late in the occupation of L F and G G or their ass with the appts situate standing and being in the parishes of C and H or one of them in the co. of togr with all the yards gardens orchards, &c. And also all those sevl closes pieces or pcls of arable land meadow pasture wood and wood-ground containing by estimation acres (be they more or less) lying and being in the several parishes fields precincts and territories of C and H, &c. to the sd messe tent or farm-house belonging and therewith held used occupied and enjoyed as pt and pcl thof And all rights privileges and appts thereto belonging (except and always reserved the timber trees unto the sd lessor his*

Demise.

Parcels.

(a) ' During so much of the sd term as the sd (T) shall happen to live pay, &c. unto the sd (T) and his ass the sum of £ — and for the residue, &c. shall, &c. pay, &c. unto the sd (R) his hrs and ass the same sum of £ —'

(b) ' For the sd (T) and his ass during so much, &c. and after his dece for the residue, &c. for the sd (R) his hrs and ass their or either of their stewards, &c.'

(c) ' For the sd (T) and his ass and after his dece for the sd (R) his hrs and ass (to re-enter)'

(d) ' And the sd (T) for himself and his ass and the sd (R) for himself his hrs and ass do and each of them (according to their respie estes) doth covt, &c. as above.

hrs and ass, &c.) (a) *To Have and to Hold* the sd messe tent or farm-house and cottages out-houses buildings closes pces and pcels of ld meadow and pasture grd And all or. the preses hby demised or intended so to be (except as before excepted) with their appts unto the sd (*lessee*) his exs or ads from the making hereof for and during and unto the full end and term of yrs from hience next ensuing and fully to be complete and ended *Yielding and Paying* therefore yrly and evy yr during the sd term unto the sd (*lessor*) his hrs and ass the yrly rent or sum of £ — of lful, &c. at the two most usual feasts or days of paymt in the yr that is to say the feasts of and of in evy yr the first paymt thof to begin and be made, &c. [‘And also yielding and paying, &c.’ here add other reservations, as the case may be, see *Lease under a Power*] *Provided always* nevss that if the sd yrly rent [or ‘or. rents’] hby reserved shall be behind and unpd by the space of days next over or after either of the sd feasts or days of paymt whereon the same ought to be pd as afd (being lfully demanded) it shall be lful, &c. (*lessor* to re-enter, &c. see *Gen. Prec.*) And the sd (*lessee*) doth hby for himself, &c. covt, &c. (to pay the rent, &c. also the sevlother rents, *as the case may be*) And also shall, &c. during, &c. pay satisfy and discharge all and all manner of taxes, &c. [except the land-tax or chief rent or a rent of shillings in the year pd to for, &c. which the sd (*lessor*) his hrs or ass are to pay and allow out of the sd yrly rent or sum of £ — unto the sd (*lessee*) his exs or ads] And also that the sd (*lessee*) his, &c. shall, &c. during, &c. at his and their own, &c. (well and sufficiently repair, &c.) he the sd (*lessor*) his hrs and ass upon request and notice to him or them made finding or allowing on the sd preses or within distance all rough timber brick lime tiles and all or. materials whatsr (except straw) for doing thof to be carried to the sd hby demised preses at the charge of the sd (*lessee*) his, &c. And the same preses so amended repaired and kept in repair as afd at the end or sooner, &c. shall and will quietly, &c. leave, &c. unto the sd (*lessor*) his, &c. And also that it shall and may be lful for the sd (*lessor*) his, &c. (to enter, &c. to view, &c.) And also that he the sd (*lessee*) shall and will during so many yrs of the sd term hby demised as he shall happen to live reside with his family upon the sd messe or tent and preses And shall not nor will (assign, &c.) And also that he, &c. shall, &c. during, &c. cultivate till manure and employ all the sd

Of a Farm
Habendum.

Term.
Redden-
dum.

Clause of
re-entry.

Covenants
from lessee.
To pay rent,
and taxes.

To repair.

Deliver up
in repair.
Lessor to
enter and
view.

To reside
on premi-
ses, &c.

Till all the
lands, &c.

(a) As to the form of the exception, see Pref. § 8; also (*Precedent of a Lease under a Power.*)

- Of a Farm* demised preses in a good and husbandlike manner and not waste destroy impoverish or make barren the same or any pt or pts thof [or the timber or or. trees hnbefe excepted] *And also* shall, &c. during, &c. spend use employ and bestow in a husbandlike manner in and upon the sd demised preses all the hay straw fodder dung soil manure and compost which therein or thereupon shall come grow arise renew or be made or shall lay out and spend upon the sd demised preses three cart loads of dung for evy load of hay or straw which shall or may be sold or disposed of and used off the sd preses during the sd term *And also* at the end, &c. shall and will leave all the soil manure and compost which shall remain unspent as afd upon some convenient pt of the sd demised preses for the use and bent of the sd (lessor) his hrs ass or under tenants he or they paying for the same such sum or sums of money as the same shall be valued at by two indifferent psns to be chosen by the sd pties hereto or in case they cannot agree by an umpire to be chosen by the sd arbitrators *And also* that he the sd (lessee) his, &c. shall not nor will during, &c. sell any crop or crops of corn grain hay or clover while the same shall be growing upon the sd preses or any pt thof *And also* shall not, &c. at any time in any one year during, &c. permit more than one half of the lds hby demised to be in tillage *And* shall not, &c. take or suffer to be taken more than three crops off any of the lds hby demised in any one course of tillage before the same shall be laid down with clover or grass seeds *And also* shall not, &c. (sow flax seeds, &c. See *Lease under a Power*) *And also* shall not, &c. in any one yr cut or plash more than a due proportion of the hedges belonging to the sd hby demised preses *And* at every such cutting shall and will in a husbandlike manner lay down and new make the hedges so cut *And also* shall, &c. use and do his and their best endeavours to preserve and keep all the timber trees underwood quickset hedges fences and growing trees or stocks that are or shall be growing grafted set or planted upon the sd preses or any pt thof during the sd term from all waste spoil hurt damage or destruction whatsr *And furr* that the sd (lessee) his, &c. shall and will in conson of the covts hnaft contd on the pt of the sd (lessor) make do or cause to be made or done in a good substantial and workmanlike manner the several reparations and amendments following that is to say, &c. (here set out the several reparations, as the case may be) *And* the sd (lessor) for himself his hrs, &c. doth hby covt, &c. with, &c. the sd (lessee) his exs and ads in manner following that is to say [That
- Spend hay, &c. on the premises.
- Leave manure on the premises.
- Not to sell growing crops.
- Nor sow flax, &c.
- To preserve timber.
- Lessee to lay out sum of £ — in repairs.
- Covenants from lessor.

when and as soon as the sd (*lessee*) shall have made and done all and every the repairs and amendments covted on his pt and behalf to be made done and perfected as afd upon the sd demised preses and shall accordingly produce and show to the sd (*lessor*) his hrs exs ads or ass the bills and rects of the workmen and ors to be employed in or about the sd repairs making it appear that the sum of £ — hath been laid out and expended in such repairs that then and in such case the sd (*lessor*) his hrs exs or ads shall and will immnly thereupon pay the same unto the sd (*lessee*) his exs and ads in full satisfaction and discharge of the exps to be incurred by the sd (*lessee*) his exs and ads in making and completing such reparations as afd And furr] That he the sd (*lessor*) his hrs or ass shall and will during the continuance of this demise upon evy rease request of the sd (*lessee*) his, &c. provide and allow sufficient rough timber, &c. for the purpe of making the repairs hnbefe covted to be made by the sd (*lessee*) his, &c. And furr (covt for quiet enjoyment, see *Gen. Precedent*) *Provided always* (proviso for determining the demise) *In Witness, &c.*

Of a Farm

To pay lessee sum of £ — towards the repairs.

To allow rough timber.

Lease of Land, &c. for ninety-nine years, from a Husband and Wife (who is entitled to the same for Life) to a Remainder-man in Fee-simple.

Obs. As, by the statute for the Abolition of Fines and Recoveries, a married woman cannot part with any estate in land without the joint consent of her husband and herself, it is presumed that an acknowledgment of this deed by the wife, pursuant to the Act, is indispensable.

This Indre made, &c. Betn A B of, &c. and M his wife (before her marre with him called M S) of the one pt and C D of the or. pt Witnesseth That in conson of the rent hby reserved and of the covts provisions and agrts hnafttr contd on the pt and behalf of the sd C D to be pd done and performed They the sd A B and M his wife Have granted demised and to farm let and by, &c. Do grant, &c. unto the sd C D his exs ads and ass All those pces or pcls of land situate, &c. and now in the occupation of the sd C D his under-tenants or ass togr with all and singr paths, &c. To Have and to Hold the sd pces, &c. unto the sd C D his exs ads and ass for and during the term of 99 yrs to be computed from the day of last and fully to be complete and ended if the sd M B shall so long live Yielding and Paying therefore yrlly and evy yr during the continuance of this demise unto the sd A B or M B and her ass the yrlly rent of £ — of, &c. being after the proportion of £ —

Testatum.

Habendum.

Copyholds per acre on two certain days or times of the yr that is to say the day of and the day of in evy yr by equal portions the first paymt thof to begin and be made at or upon the day of

Proviso for re-entry. next ensuing the date of these prests *Provided always* and it is hby decld that in case the sd yrly rent as afd or any pt thof shall happen to be behind or unpd by the space of days next after the same shall become due and paye according to the true intent and meaning of these prests (being lfully demanded) Then and in that case and thenceforth it shall and may be lful to and for the sd A B and M B and her ass into the sd pces or pcls of ld, &c. to enter and the same to have again repossess and enjoy as in her or their former este any thing herein contd to the contrary notwithstanding *And* the sd C D for himself, &c. doth, &c. covt, &c. with, &c. the sd A B and M B and her ass that he shall, &c. pay, &c. unto the sd A B or M B and her ass the sd yrly rent (proportionably as afd) hby reserved from time to time as and when the same shall become due and paye *And* shall, &c. pay and discharge the land-tax and all and all manner of or. taxes and assessments and impositions whatsr which now are taxed charged assessed or imposed upon the sd preses or any pt thof or upon the sd A B or M B or her ass in respect thof *And furr* that he the sd C D his exs, &c. shall, &c. during, &c. use the sd lds and preses in a husbandlike manner and shall, &c. keep and maintain the hedges fences gates and stiles thof in good and sufficient tenantable order and repair *In Witness, &c.*

Covenant.

To pay rent.

To pay taxes.

Lease of a Copyhold Estate by a Copyholder and Equitable Mortgagee.

Obs. 1. As to leases by copyholders, mortgagors, and mortgagees, see Pref. § 3. Until a mortgagee is admitted, the legal estate remains in the mortgagor, and the mortgagee has only an equitable estate, Co. Cop. s. 39; *Martin v. Seamore*, 1 Ch. Cas. 170; *Doe v. Wroof*, 5 E. 132, 1 Watk. Cop. Cov. Edit. 148, n.; 1 Pow. Mortg. Cov. Edit. 433, n.

2. A lease for the term of one year, and so from year to year during a term of years, if the licence of the lord can be obtained, is held at law to be a lease for one year only; but it gives the tenant an equitable estate; *Wood v. Morris*, 2 Taunt. 52; *Lufflin v. Nunn*, 11 Ves. 170, S. C. 4 E. 221.

This Indre made, &c. Betn (copyholder) of, &c. of the first pt (mortgagee) of, &c. of the second pt and (lessee) of, &c. of the third pt Witnesseth That in con-son of, &c. (see Gen. Precedent) He the sd (M) at the request and by the direction of the sd (C) testified by

his signing and sealing these prests (a) and by virtue of *Copyholds* the licence duly obtained by the sd (C) previously to the exon of these prests of and from the lord of the manor of for leasing and demising the messe, &c. hnaft described *Hath* demised, &c. and by these prests *Doth* demise, &c. unto the sd (L) *All that copyhold or customary messe* or dwelling-house, &c. situate, &c. Togr with all out-houses buildings coach-houses stables dove-houses barns stable-yards gardens pieces or plots of grd cellars areas vaults lights ways passages easements waters watercourses rights and privileges of common of every kind and all and singr or. rights privileges advantages and appts whatsr to the sd messe or tent and preses now or heretofore belonging or in any wise appertaining or with any of them now or heretofore fully holden used occupied or enjoyed (except and always reserved unto and for the sd (lessor) his hrs or ass or the lord of the sd manor all timber and or. trees which now are or at any time during this demise shall be standing or growing upon the sd hby demised preses or any pt thof with full and free liberty of ingress egress and regress at all seasonable times for him the sd (lessor) his hrs and ass with his or their workmen horses carts or orwise to enter upon the sd preses and to fell cut down grub up and carry away the same) *To Have and to Hold* the sd messe or dwelling-house, &c. with the appts (except as before excepted) from the day next before the day of the date hereof for and during the term (b) of yrs thence next ensuing *Yielding and Paying* during the continuance of this demise unto the sd (lessor) his hrs and ass the clear yrly sum of £ — of lful, &c. free and clear, &c. paye by two even and equal paymts on, &c. the first paymt, &c. (c) (See *Gen. Prec.*) *And* the sd (lessee) for himself his hrs exs and ads doth hby covt, &c. with the sd (C) his hrs and ass in manner, &c.

(a) If a licence have not been previously obtained, omit these words.

(b) If the lease be granted without a licence from the lord, say, 'For and during the term of one whole yr and at the end of the sd term for one yr from yr to yr during the term of yrs if the lord of the sd manor shall grant his licence to the sd (C) to enable him to make such demise (or for such longer term) during the sd term of yrs as according to the custom of the sd manor the sd preses can be demised so as that the same or any pt thereof shall not become forfeited or liable to be forfeited.' As to the force of such a proviso, see Obs. 3.

(c) If it be so agreed, add, '*Also yielding paying* and performing all rents herlots suits services and customs which have been anciently and accustomably due for or in respect of the sd preses or any pt thereof.'

Building. That he the sd (*lessee*) his exs or ads shall and will, &c. (pay rent) *And also, &c. (pay taxes,) &c. And also that it shall be lful to and for the sd (C) his, &c. (to enter and view repairs) (a) Provided always and these presents are upon this expes condon that if, &c. (proviso for re-entry on non-payment of rent,) &c. And the sd (C) for himself, &c. (covenant for quiet enjoyment, &c. (b) see Gen. Precedent) In Witness, &c.*

Agreement to Let a Field for Building.

Memorandum of an agrt made and entered into this day of 18 Betn A B of, &c. of the one pt and C D of, &c. of the or. pt as follow In conson that he the sd C D hath proposed and agrd to build a dwelling-house with appts as hnafr mentd he the sd A B doth hby promise and agree to and with the sd C D to grant and exte to him a good and valid lease as soon as the dwelling-house above-mentd shall be built and covered in of certain ld now measured and staked out and being pt of a certain field situate, &c. and known or called, &c. and that the sd intended lease shall be made to the sd C D his exs ads and ass for the term of 99 years at an annual rent amounting in the whole to the sum of £ — (being at the rate of s. per foot of the sd land fronting the sd road) free from all charges and deductions in respect of rates taxes and assessments of any kind whatar And that the sd intended lease shall contain all usual covts and also a covt on the pt of the sd C D that no bricks or tiles or or. wares shall be made upon the sd preses and that no inn tavern or public-house or any trade or manufactory whatar shall be carried on there that no gravel or loam shall be dug or sold from or off the sd preses or any dilapidations or waste be committed or suffered on any pt of the sd preses and that the sd C D shall and will insure and keep the preses insured from fire in the sum of £ — And the sd C D doth hby covt promise and agree to

(a) If it be so agreed, say, '*And also that he, &c. shall and will render pay and perform all heriots rents suits and services which the tenants of the sd manor have heretofore been accustomed to do.*'

(b) If it be so agreed, add, '*And furr that it shall and may be lful for the sd (lessee) his exs ads or ass for the purpe of making such repairs and amendments as are hnbefe covenanted to be made by the sd (lessee) his, &c. if the same can be done conformably to the custom of the sd manor of witht forfeiture or prejudice to the este or int of the sd (C) in and to the sd copyhd preses hby demised to fell cut down and make use of the sevl elm trees now standing and growing in the yard adjoining, &c. when and as he shall think proper.*'

accept and take such lease and to execute a counterpart thereof when tendered to him for that purpose and to pay the said A B or his solicitor the whole costs and charges of preparing as well these presents as also the said lease and counterpart And also that he the said C D shall and will before he shall erect any building upon the said piece of land submit to the inspection of the said A B a plan and elevation of the dwelling out-houses and apartments thereon to be erected for his approbation and when and so soon as such plan and elevation shall have been approved by him shall and will forthwith at his own proper costs and charges proceed to erect cover in finish and complete within the space of 6 months now next ensuing in a substantial and workmanlike manner a good and substantial brick messuage or dwelling-house with suitable chaise-house stables offices fences and walls agreeably to the said plan so approved And that the dwelling-house shall be placed at not less than ninety feet from a private road intended to be made on the north-east side of the said land at the expense of the said A B and that no building which shall be erected at more than the space of forty feet beyond the back line of the back front of the said dwelling-house shall be built of any height above twenty feet from the surface of the ground And that the said C D shall lay out and expend in the building of the said dwelling-house exclusive of all other erections a sum of not less than £ — and shall and will forthwith erect a park paling of oak of five feet in height from the surface of the ground on the sides of the said piece of land so staked out and agreed to be taken by him as aforesaid *In Witness, &c.*

Building Lease, (Variations where it is a Repairing Lease.)

This Indre made, &c. Betw (lessor) of, &c. of the one pt and (lessee) of, &c. of the or. pt Witnesseth (a) That the said (lessor) in conson of the rents and covenants hereafter reserved to be paid done and performed on the pt of the said (lessee) his exs, &c. Hath demised, &c. and by, &c. Doth demise unto the said (lessee) his exs ads and ass Firstly (a) All that piece or parcel of ground, &c. Secondly Demise. Parcels.

(a) For variations, where it is a lease under a power, see *Lease under a Power.*

(b) If, instead of a building lease, it be a repairing lease, say, 'in conson of the rents and covenants hereafter reserved on the pt of the said (lessee) his exs, &c. to be paid done and performed And also for and in conson of the costs charges and exps which he the said (lessee) hath been at or expended (or 'hath hereafter covenanted and agreed to be at and

Building.	<i>All that, &c. Thirdly All that, &c.</i> (describing each parcel separately) all which pieces or pcls of grd are situated in and are pt and pcl of the este of the sd (<i>lessor</i>) and were heretofore pt of the posson of and are exempt from all tithes and also from the land-tax which has been redeemed and which sd sevl pieces or pcls of grd are as to their respive contents dimensions abuttals and boundaries thof more particularly delineated and described in the map or plan written or drawn on the margin of these prests togr with all and singr the messes or tents and all erections and buildings to be erected and built thereon and all cellars sollers vaults lights easements
General words.	ways paths passages waters watercourses prfts commodities and apts whatsr to the sd pieces or pcls of grd messes tents or buildings belonging or which shall belong to the sd hby demised preses or any pt thof (a)
Habendum.	<i>To Have and to Hold</i> the sd pieces or pcls of grd, &c. hby demised or intended so to be with their and evy of their appts unto the sd (<i>lessee</i>) his, &c. from the, &c. last past for and during, &c. thence next ensuing fully to be complete and ended <i>Yielding and Paying</i> (b) therefore for the first yrs of the sd term the rent of a peppercorn if demanded <i>And also Yielding and Paying</i> yrly and evy yr for and during the remaining yrs of the sd term hby demised unto the sd (<i>lessor</i>) his hrs and ass the yrly rent or sum of £ — upon each (c) of the separate and sevl pieces or pcls of grd hby demised or intended so to be by even and equal half-yrly paymts on the and the in each yr the first payment to be made, &c. the sd sevl
Term.	rents to be pd and paye from time to time free and clear of all rates taxes charges assessments and paymts whatsr taxed charged assessed or imposed upon the demised preses or any pt thof by authty of Parl or
Redden- dum for the first years.	
For re- mainder of term.	
Free of all taxes, &c.	

expend,' as the case may be) in or about repairing and putting into substantial repair the preses hnaft described He the sd (*lessor*) Hath demised, &c. All that brick messe or tent and dwelling-house togr with all outhouses cellars, &c. to the sd messe, &c. belonging, &c. *To Have*, &c. the sd messe, &c.'

(a) If there be any exception, adl, ' (save and except only out of this demise such of the sd ways paths and passages and watercourses as shall be stopped up, &c. according to the general plan of the buildings to be erected, &c.)

(b) If it be a repairing lease, instead of this reservation, take usual reservation. See *Gen. Precedent*.

(c) If, as is most usual, the reservation is to be one entire rent, say, ' *Yielding and paying* for the same pieces, &c. of ld yrly, &c. unto the sd, &c. the rent or sum of £ — free, &c. to be pd and paye by even, &c.' The reservations in the text, are framed with the view of making the lessee, and consequently his sub-lessees, liable for no more than the sum charged on each parcel of land.

otherwise howsoever *Provided* (a) and it is hereby expressly declared and agreed that all and every such sum or sums of money as shall accrue and be due and payable by virtue of the reservation lastly hereinbefore contained shall be charged and chargeable only on each particular piece or parcel of ground with the messuage or dwelling-house thereon in respect of which it is hereby reserved and not upon the other or others of the said pieces or parcels of ground respectively with their respective messuages or tenements and dwelling-houses. And the said (lessee) for himself, &c. (covenant) (b) to pay the said several rents, &c. (c) And also (to pay the taxes, &c. see *Gen. Precedent*) which now are or at any time during the said term shall be taxed charged assessed and imposed upon the said demised premises or any part thereof respectively or upon the messuage or tenements and building which at any time hereafter may be erected thereon of and from all which said taxes assessments duties charges and impositions he the said (lessee) his, &c. shall and will save harmless and keep indemnified the said (lessor) his heirs and assigns. And also (d) that he the said (lessee) his executors, &c. shall and will at his and their own costs and expenses within one year from the date hereof make and form such and so much of the road called or intended to be called so far as any of the pieces or parcels of ground and premises hereby demised abut on the said road the carriage way of such road to be made with hard brick rubbish twelve inches thick at the least with a coat of good screened gravel over the same

Building.

Apportionment of rent by lessor.

Covenants from lessee to pay rent, &c.

To make a road.

(a) If it be a repairing lease, omit this proviso for apportionment.

(b) If it be a repairing lease, insert the common covenant to pay rent. See *Gen. Precedent*.

(c) Or, if it be one entire rent, then follow the general precedent.

(d) If it be a repairing lease, and the money is to be expended in repairs, omit the covenant for making the road, &c. and say, 'And also that he, &c. the said (lessee) his, &c. shall and will at his and their own costs before the end of the first year from the commencement of this demise put the premises hereby demised into good and substantial repair and lay out and expend therein or in substantial improvements the sum of £ — at the least. And shall and will within six calendar months next after the said premises shall be so repaired or improved render to the said (lessor) his heirs and assigns or to their surveyor or agent the several bills documents or other evidence requisite to prove to his or their satisfaction that the said sum at least hath been so expended and thereupon the said (lessor) his executors and assigns shall be entitled to a certificate that the same sum hath been duly expended as aforesaid. And also shall, &c. during, &c. at his, &c. keep the same premises in substantial repair and condition. And also well and sufficiently repair uphold support pave scour cleanse glaze empty amend and keep all and every the party and other walls and fences pavements wydraughts grates sinks privies drains and water-courses thereunto belonging in by and with all and all manner of needful reparations cleansings and amendments whatsoever.'

Building.

To pay to-
wards light-
ing and
watching,
&c.

And repair-
ing drains.

To wall-in
demised
premises.

To build
messuages
on the
pieces of
ground, &c.

To repair
and keep
messuages,
&c. in
repair.

To paint,
&c.

nine inches thick at the least *And also* at all times during the sd term upon demand pay a proportionate pt towards the expense of watching lighting and repairing all or. roads ways foot-paths and streets wherein or whereabouts the sd hby demised preses or any or either of them or any pt thof are situated and for making renewing and repairing the drains sewers sinks privies grates and or. watercourses now or at any time to be used in common by any tenant or tenants occupier or occupiers of any or. messes or tents adjoining or near thereto such new drains and watercourses to be made under the inspection of the surveyor of the sd (*lessor*) his hrs or ass and the proportionate pt to be calculated or ascertained according to the relative value or relative amounts of the improved or rack-rents of such messes or tents as afd *And also* that he, &c. shall and will within the space of one yr from the date hereof fence-in and enclose all such pt and pts of the sd sevl pieces and pcls of grd hby demised fronting as afd as are not already enclosed with a brick wall feet in height at the least with proportionate footings and piers *And also* that the sd (*lessee*) his, &c. shall within the space of yrs from the date hereof build upon each of the sd pieces or pcls of grd a detached or coupled messe or dwelling-house with the necessary coach-house stabling and outbuildings thereto the same to be built with good and sufficient materials of every sort and description and in a workmanlike manner according to the ground-plan or elevation also drawn on the margin hereof *And also* shall and will from time to time, &c. from and after the messes tents buildings and erections on the sd hby demised pieces or pcls of grd shall be resply completed and finished during the remr of the sd term hby granted when where and as often as need shall require at his and their own costs and chas well and sufficiently repair, &c. the sd messes or tents erections and buildings and all the party and or. walls rails lights pavements grates sinks privies drains and watercourses thereunto belonging or which shall belong to the same in by and with all and all manner of needful reparations cleansings and amendments whater (as to other covenants, if it be a repairing lease, follow the general precedent.) [*And also* shall and will once in evy yr of the sd term paint or cause to be painted the outside wood and iron work of or belonging to the sevl messes tents or buildings already erected or which shall or may hrafr be erected or built upon the sd hby demised pieces or pcls of grd with good and proper oil-colours and in a workmanlike manner or so much thof as is usually painted

And once evy yrs of the sd term colour or stucco resply the surfaces of such of the messes tents or buildings so erected or hrafte to be erected as afd or so much thof as is usually coloured or stuccoed And once at least evy yrs during the sd term paint the inside wood and iron work of the sevl messes, &c. with good and proper oil colour in a workmanlike manner or so much thof as is or ought to be painted] *And also* that it shall be lful for, &c. (lessor to enter and view, &c. see *Gen. Precedent*) and of such defects decays and want of repairs there found to give and leave notice in writing at the sd demised preses resply and that the sd (*lessee*) his exs, &c. shall and will within three mths next after evy such notice so given or left as afd well and sufficiently repair evy such defect or want of reparations mentd in the sd notice *And also* that the sd (*lessee*) his exs ads or ass shall and will peaceably and quietly leave surrender and yield up unto the sd (*lessor*) his hrs and ass the sd demised preses in good order and condon being in all things repaired maintained paved emptied amended and kept as afd at the end or or. sooner determination of the sd term togr with all doors windows chimney pieces fastenings water-closets cisterns partitions presses shelves pipes pumps pales rails locks and keys and all or. things which within the last seven yrs of the sd term shall be fixed or fastened to the sd demised preses or any pt thof *And also* that it shall be lful for the sd (*lessor*) his hrs or ass or his or their stewards or agents at all reasonbe times during the last seven yrs of the sd term to enter in and upon the sd demised preses or any pt thof and there to take a schedule or inventory of the fixtures and things thereupon which are to be left at the end of the sd term to and for the use of the sd (*lessor*) his hrs and ass pursuant to the covt hnbeft contd in that behalf *And furr* that he the sd (*lessee*) his, &c. shall not nor will during the sd term hby granted permit or suffer any psn or psns to use exercise or carry on in and upon the sd hby demised preses or any pt thof any trade or business whatsr or suffer the same to be used for any shop or shops or for a licensed mad-house a distillery brewery or manufactory of any kind whatsoever *And also* shall not nor will make or do or permit or suffer to be made or done any act matter or thing in or upon any or either of the sd pieces or pcls of grd and preses hby demised or any pt thof which shall or may become or grow to the grievance disturbance damage or annoyance of the sd (*lessor*) his hrs and ass or of any of the tenants of the sd (*lessor*) adjoining thereto *And also*

Building.

Lessor to enter and view.

Lessee to repair after notice.

To deliver up premises.

To make inventories, &c.

Not to permit noxious trades, &c.

Building.

To insure
and keep
insured.

Clause of
re-entry.

Covenants
from lessor.

that the sd (*lessee*) his exs ads and ass shall and will at his and their own proper costs from time to time and at all times during the continuance of this demise well and sufficiently insure all and evy the messes or tents erections and buildings which shall or may hereafter be built upon the sd hby demised preces and keep the same insured from casualties by fire in some or one of the public offices kept for that purpose in London or Westminster And also shall, &c. at all times whens requested by the sd (*lessor*) his hrs or ass produce and shew forth the recd for the premium for such insurance for the then current yr And in case the sd messe, &c. or any of them shall at any time or times during, &c. be burnt down destroyed or damaged by fire shall and will when and as often as the same shall happen innmly after rebuild or well and sufficiently repair the same *Provided always* and it is hby expressly decld and agrd by and betw the sd pties hereto that if the sd yrly rents (a) or sums of £ — any or either of them hnbefe reserved or any pt thof shall be behind and unpd by the space of days next after either of the sd feasts or days of paymt whereon the same ought to be pd as afd (being fully demanded) or if the sd (*lessee*) his exs ads or ass shall not well and truly observe perform fulfil and keep all and evy the covts articles clauses conditions and agrmts in these preces expsd and contd on his and their pt and behalf to be performed and kept according to the true intent and meaning thof Then and in either of such cases it shall and may be lful for the sd (*lessor*) his hrs and ass into such and so many of the sd pieces or pcls of grd hnbefe separately described and intended to be hby demised togr with the messe or tent messes or tents and buildings erected thereon whof or whereon such neglect omission or default shall resply happen or extend wholly to re-enter and the same and evy pt thof thenceforth to have again retain repossess and enjoy in their or his former este and him the sd (*lessee*) his exs ads or ass and all ors. the occupier or occupiers thof to put out any thing hncontd to the contrary thof in anywise notwithstanding *And furr* that the residue of the sd pieces or pcls of grd messes or tents, &c. whereon no such neglect omission or deflt shall happen shall be absolutely exonerated and discharged from all such forfeiture or re-entry as afd And the sd (*lessor*) for himself his hrs exs ads and ass doth hby covt [That be the sd (*lessor*) his, &c. shall and will at all times hereafter during the sd term upon the reasone request and

(a) If one entire rent be reserved, the clause of re-entry may be in the common form. See *Gen. Precedent*.

at the cost and chas in all things of the sd (*lessee*) his exs ads or ass produce his title to lease the sd pieces or pcls of grd in any Ct of law or equity or orwise] *Mines.*
And furr that he the sd (*lessee*) his, &c. paying (a) To produce his title.
the sd sevl rents hby reserved in manner and form afd and observing performing and keeping all and singr the sd sevl covenants hnbefe reserved and contd, &c. shall, &c. quietly, &c. hold, &c. the sd sevl pieces and pcls of land hby sevly and resply demised with their and evy of their apts for and during the sd term of yrs hby granted witht any lful let trouble, &c. (b)
In Witness, &c.

Lease of Coal Mines and Clay Pits by a Person seised in Right of his Wife. (Variations where they are mines of Ore.)

Obs. 1. As to leases by husband and wife, see Pref. § 3; and as to the necessity of an acknowledgment of this deed by the wife, see *Fines and Recoveries*, Pref. § 7.

2. Where there are mines open, and mines not open, the lessee of the lands cannot, in the absence of express stipulation, open new mines, Plowd. 337; *Astry v. Ballard*, 2 Mod. 193. The king, by his prerogative, is entitled to all mines of gold and silver, Plowd. 315, b; and before the 1 W. and M. c. 30, and 5 & 6 W. and M. c. 6, if a mine belonging to a subject contained gold and silver mixed with baser metals, the whole belonged to the king, Plowd. *Case of Mines*, *ub. sup.*

3. In regard to mines of ore, it is usual to make a reservation of a certain quantity of the ore, which is held to be analogous to

(a) If one entire rent, 'paying the sd rent and observing, &c. the covts hnbefe, &c. shall, &c. quietly hold the sd pieces and pcls of ld hby demised'

(b) Where the rent and covenants are entire, the following covenant may be added in order to exonerate the sub-lessees from all charges, except those which affect their respective pieces of land. 'And the sd (*lessor*) doth hby moreover covt, &c. with the sd (*lessee*) his, &c. that when and so soon as the sd respive messes and tents shall be completely finished and fit for habitation he the sd (*lessor*) his hrs, &c. shall, &c. at the request costs chas and exps of the sd (*lessee*) join and concur with him in granting under-leases for all and evy the same messes or tents so to be built as afd in such manner and form that no tent lessee or occupier thof shall be liable to pay more than the sum of £ — hnbefe reserved upon the sevl and respive pieces or pcls of ld nor chargeable with or for the breach or nonperformance of any of the agrmts hnbefe contd furr or orwise than as the same shall or may regard the parlar messe or tent whereof he shall be tenant or occupier to the intent that each and evy of the sd tenants and occupiers resply of the sd sevl messes, &c. so to be built or their respive exs, &c. shall not be answerable or accountable for the acts or defts of each or. or of the sd (*lessee*) his, &c. *Provided* nevrs and it is hby agrd, &c. by, &c. that the sd (*lessor*) his, &c. shall not be prejudiced by the last mentd covt in respect to the sd sevl rents and covts reserved on the remaining pieces or pcls of ld and the respive messes, &c. so to be built thereon'

Exoneration of the sub-lessees.

Of Mines. money, and will go to the remainder-man instead of the general heirs of the lessor, tenant for life, where it is a lease under a power, *Bassett v. Bassett*, cited in *Campbell v. Leach*, Ambl. 748, and Appendix [P.]

This Indre made, &c. Betn (lessor) of, &c. and M his wife which sd M is the daur of N P late of, &c. and also a devisee named in the last will and testament of C D of, &c. of the one pt and (lessee) of, &c. of the or. pt Witnesseth that in conson of, &c. (see Gen. Precedent) He the sd (lessor) and M his wife Have and each of them Hath granted demised, &c. and by, &c. Do and each of them Doth demise, &c. unto the sd (lessee) his, &c. All those (a) coal mines coal pits clay pits collieries seams and veins of coal as well open (b) as not open which can shall or may be wrought dug found out or discovered within upon or under all or any of the demense waste wood or common lds pt of or belonging to the manor of the sd (lessor) and M his wife And which demesne, &c. lds are hnaft more fully mentd and described that is to say (parcels) And also all and evy the whimseys gins engines and other machinery and fixtures now being in and about the sd coal mines and premises and specified in the schedule hereunder-written or hereunto annexed Togr (c) with full and free liberty licence and authty to and for the sd (lessee) his exs ads and ass and his and their workmen servts and agents to dig sink drive wire-work and make greves shafts drifts trenches sluices way-gates water-gates and water-courses for winning working getting raising and procuring all the said mines of coal and brick clay And also with full liberty power and authty to make bricks and tiles from and with the clay to be dug or gotten from the sd clay pits And also to make sufficient and convenient pit room ground room weal room and keep room in and upon the sd demesne waste, &c. lds or any pt or pts thof for the standing laying and placing as well of all the coals which shall be gotten from the sd mines as also of all such cinders stones gravel clay

Demise.

Parcels.

Power for lessee to enter and dig, &c.

(a) If the lands be demised as well as the mines, say, '*All those sevl closes pieces or pcls of ld, &c. And also all and evy the mines, &c.*' as above. If the lease be of mines of ore, say, '*All and all manner of mines pits and veins of lead tin copper metal minerals and or. ores whater as well, &c.*' as above.

(b) As to mines not open, see Obs. 3.

(c) If it be a lease of ore mines, say, '*Togr with full liberty, &c. to and for, &c. to erect build and set up any engines furnaces forges mills workshops and or. erections and buildings for making and converting the tin or or. ores, &c. to make drains buddles and bungsteads for washing dressing and cleansing the same and for or. necessary purps relating thereto.*'

and or. rubbish which shall proceed from the sd coal mines and clay pits in the digging and working thereof *And also* with full and free liberty, &c. to erect and set up upon all or any of the sd demesne, &c. lds or any pt or pts thereof such mills or engines houses stables hoods hovels lodges sheds and bridges as shall be needful and convenient for the drawing and carrying away water from the collieries and all the coal and brick to be gotten and wrought out of the sd mines quarries and clay pits or for the standing laying or placing of the workmen work-houses and work gear to be used in working the sd collieries or clay pits *And also* with sufficient liberty of passage and leave to make railways waggon or or. roads in and over the sd demesne, &c. lds and to perform all or. acts and things necessary for carrying away the coals or produce of the sd mines or pits to the canal or or. places of delivery *And generally* to have and enjoy during the continuance of the term hereafter mentd all or. liberties and privileges whater within over and upon the sd preses which shall be necessary and convenient for the winning working digging getting or drawing the coals and clay out of or from the sd mines or clay pits and taking loading and carrying away the same and making and burning bricks and tiles as afd be the sd (*lessee*) his, &c. doing as little spoil and damage of ground as possible in the working of the sd coal and clay pits (save and except and always reserved out of the present demise unto the sd (*lessor*) and M his wife and her hrs and ass all such or. seams, &c. the strata veins and mines of iron-stone and all or. mines minerals fire-clay stone and earth of what nature and kind soever not being pt and pcl of the sd mines of coal and brick clay to be or intended to be hby demised *And also* full and free liberty of ingress egress and regress to and for the sd (*lessor*) and M his wife her hrs and ass to and from the excepted mines *And to and for* his her or their workmen agents, &c. to work and dig break up get carry away convert sell and dispose of all the sd excepted mines minerals iron-stone fire-clay earth and or. thing hby excepted at his her their or any of their free will and pleasure and for that purpose to make use and deepen all or any of the pits or shafts which shall or may have been made or sunken by the sd (*lessee*) his exs ads or ass on any of the lds and preses when he the sd (*lessee*) his, &c. shall have worked out such pits and done using such shafts *And also* full and free liberty for him her or them to sink and make other shafts and pits in and upon the sd demised preses and to erect and build and construct all such erections furnaces kilns work-houses machines

Of Mines.

To erect mills, &c.

Exceptions.

Mines. and conveniences as the sd (*lessor*) and M his wife or her hrs and ass may think necessary for any of the purposes afd but nevss so as that the sd (*lessor*) and M his wife her hrs or ass shall not by such last-mentd works interfere with hinder or obstruct the sd (*lessee*) his exs ads or ass in the enjoyment of the preses hby demised) And also making and allowing for the brick curbs timber and manure left thereon as also for the coal that shall be left by the sd (*lessee*) his, &c. for the support and preservation of the shafts for the use of the sd (*lessor*) as afd a fair and reasone compensation and satisfaction to be ascertained settled and allowed by referees (in case the pties cannot themselves agree upon the amount of the same in manner hnaft expsd) *To Have and to Hold* (if the lands are also demised, say, '*To Have and to Hold* the sd closes pieces and parcels of ground, &c. and also the sd mines, &c.') all the sd mines of coal brick and clay and all and singr, &c. or the preses hby granted and demised with their appts (except as before excepted) unto the sd (*lessee*) his exs ads and ass from day of now last past for and during and unto the full end and term of yrs thence next ensuing and fully to be complete and ended (determinable nevss us hnaft mentd) (a) *Yielding and Paying* therefore unto him the sd (*lessor*) and M his wife and her hrs and ass the several respive rents royalties reser-
Habendum. vations and sums of money following that is to say (b) the sum of 1s. per ton of coals (except small coals, which shall be used in the working of the sd engines and in burning bricks and tiles) which during the continuance of the term of yrs shall or may be gotten wrought and taken from the sd coal mines hby demised the further sum of 4d. for each and evy ton of slack which shall or may be gotten wrought and taken as

Reservations.

(a) If it be a lease of tin, lead, and other mines of ore, say, '*Yielding* rendering paying and delivering therefore from time to time during the sd term unto the sd (*lessor*) and M his wife and her hrs and ass evy fifth dish dole or pt of all and evy ore of lead tin silver copper or metals and minerals which shall be got raised or brought to grass during the sd term out of or from the sd mines or any or evy of them the same to be well cleansed washed dressed and made merchantable and fit for smelting and delivered on the day, &c. (or within the space of days next after the same shall have been procured) giving from time to time and at all times unto the sd (*lessor*) and M his wife or her hrs and ass or his her or their agent or toller days previous notice of the time and place of such rendering and delivering.' As to this reservation, see Obs. 3.

(b) If the lands be demised also, say, '*The yrly rent or sum of £ — as and for the service rent of the sd pieces or parcels of ground hby demised, also Yielding, &c.*' See above.

afid the further sum of 2d. for each and evy sack of coke which shall or may be made during the sd term from the sd coals so to be gotten wrought and taken as afid And the farther sum of 1s. 6d. for every 1000 of bricks tiles or quarries which during, &c. shall be made upon the sd demised preses from the clay to be raised and gotten out of the sd clay-pits and so in proportion for a less quantity of the sd sevl articles resp'y each and evy of such tons to consist of and contain 20 cwt. and each cwt. to consist of and contain 120 lbs. and such weight to be ascertained by a proper and accurate gauge of the boat wherein such coals shall be delivered if carried away by water and by a proper weighing machine if carried away by land all which sd several and respive royalties reservations or sums of money hnbefe mentd and reserved the first paymt, &c. shall be pd and paye unto the sd (*lessor*) and M his wife her hrs and ass by quarterly paymts at or upon the sevl and respive days or times hnaft'r mentd and appted for paymt thof that is to say the day, &c. in each and evy yr witht any deduction or abatement whatsr for or in respect of any taxes or on any or. acct whatsr And in case in any one quarter of the year from the sd day of in the yr 18 until the sd mines shall be completely worked out or exhausted or the present lease determined the sd rent reservation or royalty reserved for the large coal only shall not have amounted during any such quarter of a year to the full sum of £ — of, &c. Then Yielding and Paying unto the sd (*lessor*) and M his wife, &c. so much and such full and additional sum of money as the sd rents royalties or reservations shall have fallen short of such last-mentd additional sum to be pd upon the day which shall conclude the quarter wherein such deficiency shall have happened Nevss the sd (*lessee*) his, &c. in case of his or their having made up any such deficiencies or failure in the sd rents royalties or reservations arising out of or from the sd large coal as afid shall be at liberty in any succeeding quarter of a year when the sd rent royalty or reservation, &c. shall exceed the last-mentd stipulated quarterly sum of £ — to make up the former shorts and deficiencies by selling or disposing of such quantity of the sd large coal as shall be sufficient to reimburse him and themselves the monies he or they shall have pd to make up such deficiency as afid without paying any rent for such last-mentd quantity (a) [And in case in either of the two quarters during the term of six mths to be computed

Mine.

Reservation of additional sums upon contingent events.

(a) See the general proviso at the end, which may be taken instead of what is included in brackets.

Mine. from the day of now next ensuing the sd rent reservations or royalties reserved for the sd large coal only during either of such quarters of a year shall not have amounted to the full and clear sum of £ — *Then Yielding, &c.* unto the sd (*lessor*) and M his wife and her hrs and ass so much and such furr and additional sums of money as the sd rents royalties or reservations for the sd large coal shall have fallen short in either of these quarters of a yr of the sd sum of £ — as and for the rent reservation or royalty for and in respect of such additional sum of money to be pd upon such day as shall conclude the quarter wherein such deficiency shall have happened as afd Nevss the sd (*lessee*) his exs, &c. in case of his or their having made up any such deficiencies or failures in the sd rents royalties or reservations arising out of or from the sd large coal as afd shall be at liberty in any succeeding quarter of the yr when the sd mine rent royalty or reservation for the sd large coal only shall exceed the quarterly sum of £ — to make up the former shorts and deficiencies by selling or disposing of such quantity of the sd large coal as at the rate of the sd reserved rent reservation or royalty shall be sufficient to reimburse him and themselves the monies he or they shall have pd to make up the deficiencies of the sd quarterly mine rent or royalty of £ — as afd witht paying any rent for such last-mentd quantity And in case in any quarter of the year during the term of one yr to be computed from the day of which will be in the yr 18 the sd rent reservation or royalty reserved for the sd large coal only during each of such last-mentd quarters of a yr shall not amount to the full and clear sum of £ — *Then also yielding and paying* unto the sd (*lessor*) and M his wife her hrs and ass so much and such full and additional sum of money as the sd rents royalties and reservations shall have fallen short in either of those last-mentd quarters of a year of the sd sum of £ — as and for the rent royalty or reservation for or in respect of the sd large coal Nevss the sd (*lessee*) his exs, &c. in case of his or their having made up such deficiency or failure in the sd rents royalties or reservations arising out of or from the sd large coal as afd shall be at liberty from time to time in evy succeeding quarter of a year when the sd mine rent royalty or reservation for the sd large coal only shall exceed the last-mentd stipulated quarterly sum of £ — to make up former shorts and deficiencies by selling or disposing of such quantity of the sd large coal as at the rate of the sd reserved rent royalty or reservation shall be sufficient to reimburse himself and themselves

the monies he or they shall have pd to make up the deficiencies of the sd quarterly mine rent or royalty of £ — without paying any rent for such last-mentd quantity] And in case at any time or times during the continuance of this demise or lease any advances or increase shall take place in the price of coals over and above or upon and beyond the following prices of coals: coke slack bricks tiles and quarries being the present selling prices thof resply that is to say for large coals:

per ton, &c. Then yielding and paying unto the sd (lessor) and M his wife her hrs and ass in addition to the sevl fixed royalties or mine rents hnbese expesd and reserved resply one-fourth pt of such advance or increased price at which all or any of the sd last above-mentd articles to be raised gotten out of and from the sd mines of coal and clay hby demised shall be sold over and above the prices of s. s. and s. above-mentd except any increase which may happen by any future tax upon coals and bricks *Provided always* and it is hby expesly decld and agrd by and betn the sd pties hereto that no pt of the large coal whereon the rent or royalty of 1s. per ton is hby reserved shall at any time or times during this sd term upon any pretence or for any purpe whatsr be converted into coke or sold as slack by the sd (lessee) his exs ads or ass And furr that the sd (lessee) his exs ads and ass shall and will from time to time and at all times during the sd term convert into coke and slack resply all such description of coals only which according to the custom of the country are usually converted into coke or slack in respect of which coke or slack a rent or royalty of 2d. for evy sack of coke and 4d. for evy ton of slack is or are hby reserved *Provided also* that no such rents or royalties as afd shall be demanded of or from or pd by the sd (lessee) his exs, &c. for or on acct of any slack to be used or consumed by fire-engines or steam-engines or whimsies erected or to be erected for draining or drawing water or coals from the sd collieries or mines or for or on acct of any coals to be used by the workmen to be employed in or about the sd works and preases as are customary to be allowed to them for their domestic purps nor for any purpe of making bricks or tiles to be used applied or employed in any of the works drains tunnels soughs walls for keeping out or preventing the communication of damps or fire within the sd pits nor on acct of the bricks or tiles to be used in making erecting or building any wharfs quays ware-houses bridges houses erections or buildings in upon or under the sd demesne waste wood or common lds to be

Mine.

Proviso as to advance in the price of coals.

Mine. made erected or built at any time or times during the continuance of the sd term of yrs All which sd rents or sums of money are to be pd and paye by four equal quarterly paymts in, &c. the first quarterly paymt to begin and be made on such of the sd respive days or times as shall next happen after getting or raising of such coals, &c. as afd *Provided also* and it is hby expssly decld and agrd by and betn the pties to these. prests that in case at any time or times hraft during the continuance of the sd term of yrs hby granted or intended so to be the aforesaid rents royalties reservations or any one or more of them shall be in arrear and unpd for the space of thirty days next over or after evy or any of the sd days or times of payment whereupon the same ought to have been pd as afd Then and in evy such case and so often as it shall happen it shall and may be lfal to and for the sd (lessor) and M his wife and her hrs and ass not only to stop hinder and obstruct the loading vending and carrying any of the coals bricks tiles or quarries from off the sd demised preses but also to enter upon seize and distrain and according to law to sell and dispose of all the coals clay bricks and tiles there lying above grd and all and evy the horses cattle wains gins engines and or. utensils and all materials used and employed for working the sd coal mines clay pits and collieries to the intent that thereby and therewith the sd (lessor) and M his, &c. may be fully pd and satisfied the sd rents and sums of money hby resply reserved and made paye as shall be then due and unpd togr with the full costs and chas to be occasioned by such deflt in paymt distress and sale rendering upon demand the overplus to the owner or owners of the cattle goods and chattels so to be distrained and sold as afd *Provided also* (a) and these prests are upon this express condon that if it shall happen that the afd rents royalties and reservations or any of them or any pt thereof shall have been unpd by the space of sixty days next after any of the sd days or times whereupon the same ought to have been pd as afd and no sufficient distress or distresses can or may be found or gotten on the sd demised preses to answer such arrear or arrears or if the sd (lessee) his exs or ads shall

Clause of distress.

Clause for making void the lease.

(a) If it be a lease of ore mines, say, ' *Provided also* if the sd (lessee) his exs, &c. shall refuse or neglect to render and deliver or cause, &c. unto the sd (lessor) and M his wife or her hrs and ass evy fifth dish dole or full fifth pt of all and singr the sd ore metal or mineral hubefe reserved as afd according to the true intent and meaning of these prests within the space of thirty days next after the same ought to be rendered or delivered as afd Or if the sd (lessee) his, &c. shall, &c. set let, &c.' as above.

at any time or times hereafter during, &c. set let or pt with the posson of the sd preses hby demised or any pt or pts thereof or transfer this present demise or lease for all or any pt of the sd term hby granted to any pan or pans whomsr without the consent in writing of the sd (lessor) and M his wife or her hrs and ass for that purpe first had and obtained *save and except* to or in trust for a wife child children or to a ptnr or ptnrs or in case he the sd (lessee) shall commit any act of bankruptcy whereupon a fiat shall be awarded and issued agst him or in case he the sd (lessee) his exs ads or ass shall make deft in the performance of any of the covts herein contd Then in all or any of the sd cases as afd it shall and may be lful to and for the sd (lessor) and M his wife and her hrs and ass into and upon the sd hby demised lds mines and preses or any pt thereof to re-enter and thereout to eject expel put out and remove the sd (lessee) his exs, &c. and his and their agents workmen labourers and servts and evy of them and to have hold possess and enjoy the same lds mines and premises as in his her or their former este as fully and effectually to all intents and purps whatsr as if these prests had not been made And also to work win and get the sd mines and minerals hby demised and sell and convert the same to and for his her or their own use and bent and from thenceforth the sd term of yrs and all the right and int hby granted and demised or intended so to be and evy clause covt and agrt herein-contd shall cease determine and be absolutely void to all intents and purps whatsr (save and except so far as shall be necessary to recover any arrears of rents or royalties or to recover compensation for any breach or breaches of any of the covts herein contd any thing herein contd to the contrary in any wise notwithstanding And the sd (lessee) for himself his hrs exs and ads doth hby covt, &c. with and to the sd (lessor) and M his wife and her hrs and ass in manner following, &c. That he the sd (lessee) his exs ads and ass shall and will well and truly pay or cause to be pd unto the sd (lessor) and M his wife and her hrs and ass the sevl respive rents royalties and sums of money hby reserved and made paye at or upon the sevl quarterly days and times and in manner and form hnbefe in that behalf mentd and appted for paymt thof respily and under and subject to the provoes and restrictions hnbefe contd witht any deduction or liability for taxes or on any or. acct or pretence whatsr And it is hby agreed and decld by and betn the pties hereto that the sd paymts shall be made in bills of exchange or or. good and negotiable drafts or promissory notes paye in

Mine.

Covenants
from lessee.

To pay
rents, &c.

Of Mines. London and resply dated on the sevl quarterly days in each and evy yr to fall due and become paye at a period not exceeding two mths' from the date or dates thereof *And also* that the sd (*lessee*) his, &c. shall, &c. previously to the day of 18 produce and get forth from or out of the sd coal mines, &c. tons of coals over and above small coals which shall be used in the working the sd engines and burning bricks and tiles as afd and after the sd day of 18 during the continuance of this demise shall and will work get forth and produce from and out of the sd coal pits, &c. tons of coals over and above such small coal as afd so as to make the sd royalties therefrom within the sevl periods last-mentd amount unto the sevl respive sums of money hnbeft mentd and expsd in each and evy quarter during the respive periods afd and the same to be pd and paye upon each and evy of the sd quarter days or times of payment hnbeft mentd although less quantities of the sd large coals hnbeft mentd shall or may happen to have been gotten and raised in each and evy preceding quarter unless such deficiency in the afd specific quarterly quantities resply shall have been occasioned by any of the obstructions hnaft mentd *And also* shall and will (pay taxes, &c. see *Gen. Prec.*) *And also* shall not nor will at any time during, &c. set assign over, &c. or grant to any psn or psns or make or use or permit and suffer to be made or used any drift water-gate or watercourse or any or. communication whatsr either from or into any pt of the coal mines of the sd (*lessor*) and M his wife and her hrs and ass witht the licence, &c. *And also* shall and will use his and their utmost endeavours to work the sd coal mines, &c. properly and effectually by pursuing the seam of coals as far down as it shall extend and by working and carrying on the same fairly and regularly *And also* shall and will leave substantial walls and pillars of coal to support the roofs of each coal mine, &c. as shall be wrought by him for the purpose of preventing the same from falling and also of avoiding crups and thrusts and also for the purpe of keeping clear and open the drifts air-courses and water-courses of the sd coal-mines, &c. *And also* that the sd (*lessee*) his, &c. shall not nor will at any time during, &c. do or knowingly or willingly suffer to be done any act deed matter or thing whatsr whby or by reason or means whof the sd coal mines, &c. and seams of coals hby demised shall or may be drowned or orwise become incapable of being worked or be prejudiced damaged or spoiled *And* shall not nor will win or work for coal under any pt or pts of the lands or grds of the sd (*lessor*) or M

To get and raise stipulated quantity of coals.

Not to assign, &c.

To work mines properly.

his wife or her hrs and ass or of any or. psn or psns whomsr or under any or. than such demesne, &c. lds or grds as are hnbe fe mentd and specified and intended to be wrought under or exceeding a line falling in a perpendicular direction round the limits or boundaries of the sd demesne and lds hby demised or intended so to be *And also* that it shall be lful for the sd (*lessor*) and M his wife and her hrs and ass to appoint employ and keep at his her and their own expense and chas agents check clks inspectors viewers stewards or bailiffs to attend and reside constantly and regularly or occasionally as he she or they shall think proper upon in or near unto the sd collieries or works *And also* by himself herself or themselves or his her or their viewer or viewers agent or agents to be by him her or them employed or appointed as afd at any time or times during, &c. when any of the sd sevl shafts of the sd coal mines, &c. are at work by the ropes or engines used at any of the sd shafts and with the help of the workmen employed in the sd mines or any of them to descend into the same and to plumb view line and survey the works thof *Provided* that the sd shafts or mines shall not be viewed as afd oftener than once in the week and so that the workings of the sd coal mines, &c. shall not be thby obstructed longer than necessity may require for the taking of such views *And also*, &c. that the sd (*lessee*) shall, &c. at all times, &c. during, &c. keep regular books wherein shall be entered full fair and particular accounts of the quantities and number of tons of coals bricks and tiles which shall be gotten raised made and burnt and also the prices at or for which they shall be sold which sd books shall be kept at some proper office or counting-house within the parish of and to which the sd (*lessor*) and M his wife and her hrs and ass shall and may at all rease times have free access and may take copies and extracts therefrom as occasion shall or may require at his her or their free will and pleasure *And also* that the sd (*lessee*) his exs, &c. shall not nor will at, &c. during, &c. make any wilful or unnecessary damage or spoil of grd in having using or enjoying any way or ways in or through the lds or grds hnbe fe mentd or do any unnecessary thing by virtue of the power and liberties hby given and shall not nor will sink or do any damage in or to any houses or buildings belonging to or standing in or upon the sd demised preses or any pt thof *And* shall and will half yrly on the day of and the day of in evy yr during, &c. pay unto the sd (*lessor*) or M his wife or her hrs and ass all such sum or sums of money as shall or may be required to make good

Of Mines.

To permit lessee to examine works.

To keep books of account.

Not to make unnecessary damage, &c

And pay towards repairs, &c.

Of Mines. and repair the damage done by the sd (*lessee*) his exs, &c. or his or their workmen, &c. on the sd demesne, &c. lds or grds or any pt or pts thof or in the use or exercise of any of the powers or liberties hby granted such sum or sums of money being first ascertained (if required) by any two indifferent psns as arbitrators to be chosen one of them by the sd (*lessor*) his or, &c. and the or. by the sd (*lessee*) &c. within days next after any such damage shall be so done as afd And in case any of the sd pties shall neglect or refuse on their pts to name a proper psn as arbitrator within days after being required thereto then by two indifferent psns to be chosen by the pty willing to name a proper psn and in case the arbitrators so chosen by either of the sd ways as afd shall not agree then and in that case the sum shall be ascertained by an umpire to be chosen by the two sd arbitrators whose determination shall be final and conclusive (a) And also that he the sd (*lessee*) his, &c. shall, &c. during, &c. secure fence and rail round all the useless shafts and pits so as to prevent any psn or psns or the cattle of any of the tents of the sd ld or grds from falling in And in case any damage shall happen by reason of any such shafts or pits not being secured or fastened as afd he the sd (*lessee*) his, &c. shall and will save harmless and indemnified the sd (*lessor*) and M, &c. of and from the same or any actions or costs which may arise thby And also shall, &c. at all times, &c. during, &c. keep and at the end or or. sooner determination of the sd term leave all and evy the workpits shafts and all the drifts and watercourses of or belonging to the sd demised coal mines, &c. or such of them as shall not be worked out open free and clear And also all and evy the whimsies gins engines and other machinery mentd and specified in the schedule here under-written or hereto annexed in good tenatable order and condon (rease use and wear and unavoidable accidents only excepted) Togr with all such timbers deals and or. materials which shall be provided by the sd (*lessee*) his, &c. as shall be requisite to support the sd shafts and pits and roof of coal mines and prevent the same from falling in or being orwise damaged And shall and will at the end, &c. peaceably, &c. deliver up unto the sd (*lessor*) or M his wife or her hrs and ass the sd collieries coal mines, &c.

To fence in useless shafts, &c.

To leave shafts to lessor.

And all engines, &c.

In good repair.

And deliver up coal mines, &c.

(a) If it be necessary, add, ' And also if required by the sd (*lessor*) and M his wife or her hrs and ass fill up all and evy the sd pits or mines which shall be exhausted or arch over the same with bricks in a workmanlike manner and restore the sd lds and heredita to a state fit for cultivation so far as circumstances will permit'

whimsies gins engines and all and singr the preses hnbefe mentd and intended to be hby demised in such good order and plight as a well-wrought colliery ought to be left in (a) *Provided always* and the true intent and meaning of these prests is that if any of the sd shafts or pits shall at any time or times during, &c. be stopped or obstructed in the working thof either by fire water damp or or. accidents not arising from the wilful deft or mismanagement of the sd (*lessee*) his exs ads or ass Then and in such case the sd (*lessee*) his, &c. shall not be compellable under or by virtue of the covenant hnbefe for that purpe contd to get and raise the afd quantity of tons per yr but only such proportionate quantity as the sd remaining collieries coal mines, &c. shall be capable of producing And the sd (*lessor*) for himself and M his wife and her hrs and ass doth hby covt, &c. with, &c. the sd (*lessee*) his, &c. that he the sd (*lessee*), &c. paying the sevl rents royalties and reservations and performing, &c. shall, &c. quietly, &c. (see *gen. precedent*) *Provided always* and it is hby decl'd and agrd by, &c. that if at any time or times during, &c. the sd coal mines or collieries in consequence of being so stopped or obstructed by fire water damp or or. accidents not arising from the deft or neglect of the sd (*lessee*) his exs ads or ass shall not within days in any quarter be capable of producing tons of fuel coals after such allowances as are hnbefe mentd and the sd (*lessee*) his exs ads or ass shall be minded and desirous to abandon or relinquish the sd mines of coal, &c. hby demised, &c. and the future working thof Then and in evy such case it shall and may be lful to and for the sd (*lessee*) his, &c. upon giving cal mths notice of such his intention and after the end of the calr mths and after paymt of all rent and arrears of rent which shall be then due for or in respect of the sd coal mines, &c. hby, &c. and after paymt of all dams (if any) which shall have been sustained in consequence of the breach or nonperformance of any of the covts and agrmts hncontd on the pt of the sd (*lessee*) his, &c. to be done and performed these prests and evy clause matter or thing hereincontd shall cease determine and be abso-

Of Mines.

Proviso as to shafts that are stopped up, &c.

Covenant for quiet enjoyment.

Power to abandon mines.

(a) Instead of the mine-rent, before reserved, in case of deficiency, may be added the following proviso, '*Provided always* and the true intent and meaning of these prests is that in case the sd (*lessee*) his exs ads or ass shall not in any one yr during, &c. raise or produce tons of coals over and above such small coals as afd And if the sd (*lessee*) his exs ads or ass shall make good the deficiency in the succeeding yr then he the sd (*lessee*) his hrs exs ads or ass shall not be subject or liable to a breach of covt in consequence of such deficiency *Provided also,* &c.

Rectory. lutely void *Provided also* and it is, &c. that it shall and may be lful for the sd (lessor) or M, &c. at the end or or. sooner determination of, &c. to purchase all or any of the whimsies gins engines, &c. or or. erections to be made erected and set up by or at the expense of the sd (lessee) his, &c. upon the sd demesne, &c. and not included in the schedule here underwritten or hereunto annexed upon paying such price for the same as shall in case of disagreement betn the pties be awarded by arbitration or umpirage in manner hnbeefe mentd *In Witness, &c.*

A concurrent Lease of a Rectory and the Tithes by a Dean and Chapter.

Oba. 1. By the 5 G. III. c. 17, amending the 32 H. VIII. c. 28, and 13 Eliz., ecclesiastical persons are enabled to grant leases of tithes and all other incorporeal hereditaments. See Pref. § 3.

2. Under the 32 H. VIII. ecclesiastical persons may make a new lease to another in reversion during the continuance of a subsisting lease, to begin from the making thereof, provided that there be not more than two or three years of the term unexpired, and that the lease be not a lease for life or lives. Co. Inst. 47, a.

3. By the 43 G. III. c. 84, s. 34, all contracts for letting the parsonage are declared void.

4. As the parson is bound to keep the chancel of the parish church in repair, *Walwyn v. Aubery*, 2 Mod. 254, it is usual for the lessee to enter into a covenant to take this burthen on himself.

Recital of
surrender
and new
lease.

This Indre made, &c. Betn the very Rev. I B Dean of the Cathedral Church of, &c. and the Chapter of the same of the one pt and C D of, &c. of the or. pt Whas by an indre bearing date the day of and made betn (Dean and Chapter) of the one pt and I H of the or. pt the sd (D and C) in conson of the surrender of a former lease of the preses thnaft demised bearing date, &c. Did demise grant and to farm let unto the sd I H his exs and ads All that the rectory and preses therein and hnaft described To Hold the sd rectory and preses with their apts unto the sd I H his exs and ads from the feast of then last past for the term of yrs from thence next ensuing subject to the rents reservations and covts therein contd And whas the sd (D and C) have agrd with the sd (lessee) in conson of the sum of £ — to grant to him a lease of the sevl respive preses afd subject to the sd lease granted to the sd I H for the term of 21 yrs from the day of now last past subject to the like rents as are reserved and made paye by the sd in pt hnbeefe recited indre of lease and also to the covts hnaft contd Now this Indre Witnesseth That in conson of the sum of £ — of, &c. to the sd (D and C) at, &c. by the sd (L) well, &c. pd the rect of which sum the sd (D and C) do hby acknge and of and from the same

Agreement
to grant
concurrent
lease.

do acquit and discharge the sd (L) his exs and ads And also in conson of the rents reservations and covts hnaft reserved and contd and on the pt of the sd (L) to be pd done and performed they the sd (D and C) with one consent Have granted demised and to farm letten and by, &c. Doth grant, &c. unto the sd (L) his exs and ads *All that* the rectory (or 'prebend,' &c. *as the case may be*) of the parish church of situated, &c. (a) with all and all manner of tithes of corn grain and hay and or. great or rectorial tithes and dues whatsr togr with all obventions oblations pensions fees dues prfts fruits emoluments rights members and appts of what nature or kind soever (b) except as hnaft mentd And also the free use of the barns hovels and outhouses situated in the yard of the parsonage for the putting and lodging the grain and hay therein (c) *except and always reserved* unto the sd (D and C) and their successors the mansion or parsonage house (d) of the sd rectory and all houses edifices and buildings to the sd parsonage belonging or in any wise appertaining and now and formerly used as pt and pcl of the same parsonage house (e) *And also except and reserved* to the sd (D and C) and their successors the patronage and advowson of the vicarage church of afd when and as often as the same should be vacant. *And also except and reserved* to the sd (D and C) and their successors all trees of oak ash or elm then growing or to grow on the sd demised preces *To Have and to Hold* the sd rectory and all and singr or. the afd sevl preces with the appts (except as afd) unto the sd (L) his exs and ads from the day of now last past for and during the term of 21 yrs from thence next ensuing fully to be complete and ended but subject to the sd in pt recited indre of lease granted to the sd I H *Yielding and*

(a) If the glebe land is demised, say, 'And all and singr the glebe lds belonging to the sd rectory and the field orchard and garden adjoining and all barns stables, &c. (*parcels*)'

(b) And also, &c. (for the small tithes, see *next Precedent*.)

(c) If so agreed, say, 'And also the use of the sd yard for the feeding of cattle therein with full and free liberty of ingress egress and regress for him the sd (*lessee*) his exs, &c. with his and their servants workmen horses and carriages in by and through the usual ways and passages to come into and upon the sd barns yard, &c. at all times during the continuance of this demise'

(d) As to the necessity of this reservation, see Obs. 3.

(e) If the rectory is part of a manor, add, 'And also the court leet and court baron belonging to the sd manor And all the issues rents services fines amerciaments wards marriages reliefs cashents forfeitures heriots waifs estrays deodands goods of felons and of felons of themselves and of fugitives and condemned pans And all or. the rights liberties privileges profits royalties and jurisdictions whatsr to the sd manor belonging or in any wise appertaining with their and evy of their appts'

Rectory. paying therefore yrly and evy yr during the sd term hby granted unto the sd (*D and C*) and their successors or their treasurer or subtreasurer for the time being at or in the common hall of the sd (*D and C*) within the deanery of the sum of £ — at the four usual feasts in the yr that is to say (state times of payment) witht any deduction or abatement whatsr for all the afd preses And also yielding and paying yrly and evy yr from and after the day of now next ensuing unto the sd (*D and C*) and their successors or their certain atty but for the use and bent of the vicar and parish church of and his successors the furr sum of £ — of like lful money by two half-yrly paymts in the yr that is to say at, &c. as and for the augmentation of the sd vicar and his successor witht any deduction, &c. *Provided always* that if it shall happen that the sd sevl and respive rents or payments hnbefe reserved or any pt thereof shall be in arrear by the space of 21 days after any or either of the sd days on which the same ought resply to be pd as afd or if the sd (*lessee*) his exs or ads shall let assign or part with the posson of the preses hby demised or any pt thof or of their int of or in the whole or any pt thereof to any psn or psns whomsr witht the licence of the sd (*D and C*) or their successors first had and obtained or if the sd (*L*) his exs or ads shall not well and truly observe fulfil and keep all the covts and provisions hereincontd which on his or their pt are or ought to be observed fulfilled and kept Then in any or either of the sd cases it shall and may be lful to and for the sd (*D and C*) and their successors or their certain attorney to re-enter into the sd demised preses and evy pt thereof and the same to have again retain keep and enjoy as in their first and former este and the sd (*L*) his exs and ads from thence wholly to expel anove and put out any thing hereincontained to the contrary thereof in any wise notwithstanding And the sd (*L*) doth hby for himself his hrs exs and ads covt, &c. with, &c. the sd (*D and C*) and their successors in manner following that is to say That he the sd (*L*) his exs or ads shall and will yrly and evy yr during the continuance of the sd term hby granted well and truly pay, &c. unto the sd (*D and C*) and their successors or the treasurer, &c. the sevl and respive sums of £ — and £ — upon the sevl and respive days appted for the paymt of the same witht any deduction, &c. on any acct whatsr And also that he the sd (*L*) his, &c. shall, &c. at all times during, &c. pay bear and discharge all rents taxes chas and assessments which now are or hrafrtr shall be rated taxed charged or assessed upon the sd demised preses

Covenants
from lessee.

To pay
rent, &c.

To pay
taxes.

or any pt thereof by authty of Parlt or by any or. power or authty whatsr (a) And (b) also that he, &c. shall, &c. at his or their costs and chas well and sufficiently repair amend sustain and uphold the chancel of the sd parish church of as afd And also the walls fences and ditches in and about all the demised preses at the oversight and inspection of the sd (D) treasurer or deputy-treasurer of the sd cathedral church for the time being and at the expiration or or. sooner determination of the sd term shall and will leave and yield up the same to them the sd (D and C) and their successors so well and sufficiently repaired amended sustained and upheld And also that he, &c. shall and will within six yrs from the date hereof make or cause to be made a true and perfect terrier of all the sd hby demised preses and the same engrossed on parchment and signed with his or their own hand or hands shall deliver or cause, &c. to the sd (D and C) or their successors, &c. or their treasurer, &c. within one month after the expiration of the sd six yrs And shall also deliver a like terrier in manner and form afd at the end of evy subsequent seventh year of this demise And also that he the sd (L) his exs and ads shall and will at all times during this demise lay up all the corn growing upon the sd hby demised preses and also all the tithe corn hby demised in the sd barn, &c. or in some or. convenient place or places within the sd rectory, &c. (c) And that he the sd (L) his, &c. shall not nor will at any time during, &c. dig plough or break up or convert into tillage or for turves any pt of the sd hby demised preses afd witht the special licence and consent of the sd (D and C) or their successors in writing under their common seal for that purpe first had and obtained And that he the sd (L) his, &c. shall, &c. on the first day of in the last yr of the term hby granted deliver and yield up all such lds as shall or should be fallow according to the course of husbandry in

Rectory.

To repair
chancel.

To make a
terrier.

To lay up
corn on the
premises.

Not to dig
up meadow
land.

(a) If necessary, add, 'And also that he the sd (L) his, &c. shall, &c. during, &c. pay and bear all the exps for the entertainment of the Dean and Treasurer or his deputy and of the steward or his deputy of the sd cathedral church for the time being and their attendants servants and horses with meat drink and lodging on their coming to hold courts leet or courts baron of the sd manor as often as there shall be occasion not exceeding two days and three nights at each time.'

(b) As to the repair of the chancel, see Obs. 4.

(c) Or 'within the sd manor, &c. (as the case may be) And also that he the sd (L) his, &c. shall, &c. during, &c. at his and their own proper costs keep serve and sustain all waifs and estrays that shall happen within the sd manor and come into his or their hands until they shall be adjudged to the sd (D and C) as lords of the sd manor or be delivered to the owners resply.'

*Small
Tithes.*

Covenant
from les-
sors.

afd witht any diminution of the sd rent or any or. allowance for the same And the sd (*D and C*) do hby for themselves and their successors covt, &c. with, &c. the sd (*L*) and his exs, &c. that he the sd (*L*) his, &c. well and truly paying the sevl and respive rents or sums of money hnbefe reserved according to the true intent and meaning of these prests and observing and performing fulfilling and keeping all and evy the covts and agrts hereincontd and on his and their pt to be observed performed fulfilled and kept shall quietly, &c. have, &c. the sd hby demised preses with their apts (except as before excepted) during all the sd term hby granted witht any lful let suit trouble eviction or molestation of or by the sd (*D and C*) and their successors or of or by any or. pan or psns whomsr lfully claiming by from or under them *In Witness* whereof to one pt of these prests remaining with the sd (*L*) the sd (*D and C*) have caused their common seal to be affixed and to the or. the sd (*L*) hath set his hand and seal the day and yr first before written

Lease of the small or Vicarial Tithes.

Obs. As to the power of granting such leases by ecclesiastical persons, see *last Precedent*, Obs. 1.

Tcstatum.

This Indre made, &c. Betn the Rev. A B of, &c. rector of the parish church of (or vicar, &c. *as the case may be*) of the one pt and C D of, &c. of the or. pt *Witnesseth* That in conson of the rent and covts hnafr contd and reserved on the pt and behalf of the sd C D his exs and ads to be pd done kept and performed He the sd A B *Hath* demised, &c. and by, &c. *Doth* demise, &c. unto the sd C D his exs and ads *All those* the tithe of wool lamb milk honey and of all or. tithes dues and duties which are usually pd and reckoned as small or vicarial tithes in upon or within the fields or precincts of the parish of which belong to the sd A B as rector (or vicar) as afd And also all and all manner of Easter-offerings mortuaries christenings churchings marriages burials and surplice fees of evy kind And also all compositions for the same due and paye by W B of, &c. esq. and H S, &c. *To Have and to Hold* all the sd vicarial or small tithes, &c. and all and singr or. the preses hby demised or intended so to be unto the sd C D his exs and ads from the date of these prests unto the full, &c. term of 21 yrs if the sd A B shall so long live and shall continue so long rector (or 'vicar') of the sd parish church of in as full ample, &c. manner as, &c. *Yielding and paying* yrly and evy yr during the continuance of the sd demise unto the sd A B or his ass

the sum of £ — at or in the parsonage (or 'vicarage') house upon the day and the day of in evy yr the first paymt to be made on the day of now next ensuing And the sd C D for himself his hrs exs, &c. doth hby covt, &c. with the sd A B in manner, &c. That he the sd C D his, &c. shall, &c. during, &c. this demise well, &c. (pay rent) And also shall, &c. from time to time and at all times during, &c. bear pay and discharge all and all manner of (taxes, &c. see *last precedent*) And also that he, &c. shall not nor will at any time during, &c. the sd term demise let set or assign over the sd hby demised tithes, &c. or any of them or any pt thereof to any psn or psns, &c. And that he, &c. shall, &c. from time to time, &c. keep just and true books of acct wherein he shall duly enter and set down all and evy sum and sums of money or or. valuables which he shall rece for or in respect and satisfaction of any of the tithes, &c. or or. the preses hnbefer mentd to be hby demised And also an acct of the quantity and species of small tithes recd in kind togr with the names of the pties from whom and the parlars of which such sums of money or valuable things shall be recd and at the expiration of the sd term or or. sooner determination thereof shall and will deliver up into the hands of the sd A B his exs, &c. such bks of acct and all or. books papers and writings in the custody or power of him the sd C D his exs, &c. or which he or they can come by witht suit at law or in equity in any wise relating to the sd tithes, &c. hby demised or intended so to be or to the rect or paymt thereof or of any pt thereof And the sd A B for himself, &c. doth hby covt, &c. with, &c. the sd C D his exs, &c. that he the sd C D paying, &c. the sd yrly rent in manner afd and also performing, &c. all and evy the covts, &c. according to the true intent and meaning of these prests shall and lfully may peaceably, &c. have hold rece, &c. the sd hby demised preses with their appts, &c. witht any let suit, &c. *Provided always* and these prests are upon this express condon that if the sd yrly rent of £ — hnbefer reserved or any pt thereof shall be behind and unpd by the space of thirty days next after the day on which the same ought to be paid as afd being lfully demanded or if the sd C D his exs or ads shall at any time during this demise let assign or depart with posson of, &c. without the special licence, &c. Then and in either of the sd cases it shall be lful, &c. (to re-enter, &c.) *Provided also* and it is hby decld and agrd that in case the sd A B shall during the term hby demised depart this life or resign the sd rectory (or 'vicarage') or that the same shall become vacant by

*Small
Tithes.*

Covenants
from lessee.

To pay rent

To pay
taxes.

To keep
accounts.

To deliver
books of
account.

Covenant
from lessor.

Proviso on
non-pay-
ment.

Proviso if
living be-
come
vacant.

Of Mills. any or. Iful avoidance or orwise Then and in any of the sd cases the sd C D his exs or ads shall not be obliged to pay any or. or more rent than what shall be proportionable to the value of such or so much of the sd hby leased tithes as he shall have recd by virtue of the demise hby made to the time of such avoidance as afd anything hereincontd to the contrary in any wise notwithstanding
In Witness, &c.

Lease of Mills and Lands to two as Tenants in Common, with Power to pull down Houses and cut Timber, and Covenant for Conveyance to Lessees at the End of the Term, on Paying Purchase Money by Instalments.

This Indre made, &c. Betn A B of, &c. of the one pt and C D of, &c. and E F of, &c. of the or. pt *Witnesseth* That for and in conson of the yrly rent hnafr reserved and the covts and agrmts contd on the pt of the sd C D and E F their exs ads and ass to be pd kept done and performed He the sd A B *Hath* demised, &c. and hy, &c. *Doth* demise unto the sd C D and E F their exs ads and ass *all those* (a) cotton mills, &c. situate, &c. and called, &c. and also *all those* pieces and parcels of land, &c. togr with the water and streams in anywise leading to the sd mills and all and singr easements ways paths passages heads mill-ponds water water-courses profits advantages commodities and apts whatsr to the sd preses belonging or in anywise appertaining or with the same or any pt thof held used and occupied or enjoyed or known taken or considered as pt or pcl thof with full liberty to make drains and collect and carry water for the use of the sd mills up to the top of the several streams or springs for supplying water for the use of the sd mill And also with full power and authty for them the sd C D and E F their exs, &c. to pull down and remove all or any of the buildings hby demised and to build any new or or. erections or buildings upon the sd lds hby demised or any pt thof and to cut down any timber or or. wood now growing or being or which during the term hby demised shall grow or be upon the ld or preses hby demised or any pt thof and convey the same to and for their own use and bent witht being accountable for the same and in such

(a) If it be a windmill, say, 'All that mill or machine for grinding corn or or. grain called mill standing and being on a certain piece or pcl of grd And all the sd piece, &c. togr with all and all manner of or. erections engines utensils and implements and the apts therein.'

manner as they shall think fit *To Have*, &c. the sd mills lds tents and hereds and all and singr or. the presses hnbeft expsd to be hby demised with their and evy of their apts unto the sd C D and E F equally to be divided betn them as tenants in common and not as joint tenants and their respive exs ads and ass from, &c. for and during, &c. yielding, &c. by two equal half-yrly paymts on the, &c. the first paymt, &c. to be made on, &c. *And* the sd C D and E F for themselves jily and sevly and for their respive hrs exs and ads do hby covt, &c. with the sd (*lessee*) his hrs and ass in manner, &c. That they the sd C D and E F shall, &c. (pay rent) *And* shall, &c. (pay taxes) *Provided always* that in case the sd rent, &c. shall be unpd for the space of, &c. (power to re-enter) *And* the sd A B for himself his hrs and ass doth, &c. covt, &c. with the sd C D and E F that they the sd C D and E F paying, &c. shall (peaceably enjoy) *And whas* the sd C D and E F have contracted with the sd A B for the absolute purchase of the sd mills, &c. hby demised and the inhance in fee simple (subject and witht prejudice to the sd term of yrs) to be conveyd and assured unto and to the use of the sd C D and E F their hrs and ass as tents in common or orwise as they shall direct at the end of the sd term of yrs at or for the price or sum of £ — to be pd at the times and in manner following that is to say the sum of £ — pt thof by equal and successive annual paymts the first annual paymt to be made on the day of which will be in the yr 18 and the or. annual paymts to be made in the next succeeding yrs and the sum of £ — being the remaining pt of the sd purchase money or sum of £ — to be pd at the end of the sd term of yrs to be computed from the day of 18 as afd *And* it was at the same time agrd by and betn the sd pties hereto that upon the paymt of the sd sum of £ — by the sd C D and E F their hrs and ass unto the sd A B his exs ads and ass as hnbeft mentd the sd A B his exs, &c. should allow unto the sd C D and E F their exs ads and ass out of the sd rent of £ — hnbeft reserved int after the rate of £ — for evy 100l. which they the sd C D and E F their hrs or ass should pay unto the sd A B his exs ads or ass *Now* *this Indre furr Witnesseth* That in pursuance of the sd agrmt and for and in conson of the sum of £ — to be pd to the sd A B at the times hnbeft mentd and of the covts hnaft contd on the pt of the sd C D and E F He the sd A B for himself his hrs, &c. doth, &c. covt, &c. with, &c. the sd C D and E F their hrs and ass that he the sd A B his hrs or ass and evy or. psn claiming

Of Mills.

Covenants from lessees.

Recital of agreement to purchase.

Further testatum.

Covenant from lessor to convey.

Of Tolls. through or under him or them shall and will at the end of the sd terms of yrs upon paymt made to him or them of the sd sum of £ — in the manner hnbefe mentd by such good and sufficient conveyances and assurances in the law with usual and reasone covts as the sd C D and E F their hrs or ass or their counsel in the law shall reasonably advise devise or require well and sufficiently convey and assure unto and to the use of the sd C D and E F their hrs and ass as tenants in common or orwise as they shall direct or appt the sd mills lds tents hereds and preses hnbefe described and hby demised or expsd or intended so to be with the apts and the inchanse thof in fee-simple save and except such of the buildings hby demised as shall have been pulled down and except such of the timber as shall have been felled or cut down by the sd C D and E F pursuant to the powers and authty hnbefe for that purpe to them given. *And* the sd C D and E F for themselves their hrs, &c. do and each of them doth hby covt, &c. with, &c. the sd A B his hrs, &c. that they the sd C D and E F their hrs, &c. shall and will pay unto the sd A B his exs, &c. the sd purchase money or sum of £ — at the times and in the manner hnbefe mentd *Provided always* and it is hby agrd and decld by and betn the sd pties hereto that the sd purchase money or sum of £ — so covenanted and agrd to be pd by the sd C D and E F as afd is to be pd by them over and above and in addition to the sd yrlly rent of £ — subject nevss to the proviso hnafttr contd *Provided always* that upon the paymt of the sd sum of £ — by the sd C D and E F their hrs exs, &c. unto the sd A B his exs, &c. at the times and in the manner hnbefe mentd the sd A B his hrs, &c. shall allow unto the sd C D and E F their hrs, &c. out of the sd rent of £ — int after the rate of £ — per ann. for evy 100l. which they the sd C D and E F their hrs or ass shall pay unto the sd A B his exs, &c. And it shall and may be lful for the sd C D and E F their hrs or ass to deduct the same in pursuance of the covenant hnbefe mentd *In Witness, &c.*

Covenant
to pay
purchase
money.

Lease of Tolls.

This Indre made, &c. Betn (trustees) being the trustees appointed by or under a certain Act of Parliament made, &c. entitled ' An Act,' &c. of the one pt and (lessee) of, &c. and (sureties) of, &c. of the or. pt *Whas* at a meeting of the trustees of the sd turnpike road held at the in the sd co. on the day of by public adver-

Recital of
putting up
tolls to
auction.

tisement duly given for the purpe of letting to farm the tolls of the sevl gates erected upon the sd turnpike road [or, 'the tolls hnafr mentd'] in the manner directed by an Act passed in, &c. entitled 'An Act, &c.' and also by an Act passed, &c. and entitled 'An Act, &c.' the sd (*lessee*) became the hightest or last bidder for the same at the yrly rent of and was accordingly decl'd the farmer or renter thof for the term of yrs from the day of And whas the sd (*sureties*) have at the request of the sd (*lessee*) and in order to satisfy the condons of letting the sd tolls agrd to become pties to these prests and to enter as sureties along with him the sd (*lessee*) for paymt of the yrly rent and for the performance of the covts and agrmts hnafr reserved and contd *Now this Indre Witnesseth* that for and in conson of the rent hnafr reserved and the covts, &c. on the pt and behalf of the sd (*lessee*) and (*sureties*) their respive exs and ads to be pd done and performed they the sd (*trustees*) in pursuance and exercise of the power and authty given to or vested in them in and by the sd sevl recited acts or any or either of them and of all or. power or powers authty and authties in anywise enabling them in this behalf *Have* demised leased and to farm let, &c. and by, &c. *Do*, &c. unto, &c. all and singr the tolls of the sevl gates erected upon the sd turnpike road that is to say of the gate situate at, &c. and of the gate, &c. with full power and authty for him the sd (*lessee*) his exs and ads and such psn or psns as he or they shall authorize or appt to collect and rece the sd tolls according and subject to the provisions and restrictions of the sd sevl acts or any or either of them and under and subject to such rules orders regulations restrictions and variations as have been or shall at any time or times hrafr be made ordered or agrd upon by the sd trustees for the time being of the sd turnpike road pursuant to the powers vested in them in and by the sd acts or any or either of them and for that purpe to occupy and enjoy the toll-house [or 'toll-houses'] at which the sd tolls are to be collected and to arise with all the apts and conveniences to the sd toll-house [or 'toll-houses'] belonging during so long time only as the sd (*lessee*) shall duly and regularly pay rent and perform the covts and agrmts herein reserved and contd *To Have and To Hold* the sd tolls and gates and all and singr, &c. unto the sd (*lessee*) his, &c. from the day of for and during and unto the full end and term of one yr from thence next ensuing and fully, &c. *Yielding and Paying* therefore during the sd term unto the trustees for the time being or their treasurer or to such or. psn or

Of Tolls.

Agreement of sureties to join with lessee.

Demise.

Habendum.

Term.
Redden-
dum.

Of Tolls. psns as they shall appt the yrly rent or sum of £ — of, &c. by thirteen equal monthly instalments in the yr at the end of each successive period of four weeks witht making any deduction or abatement thereout on any account or pretence whatsr the first mthly paymt to be made on the day of now next ensuing *Provided always* and it is hby decld and agrd by and betn the pties hereto that if the sd rent hnbefe reserved shall be in arrear by the space of days next after, &c. pursuant to the covt hnafttr contd or if the sd (*lessee*) his, &c. shall neglect or refuse to perform the covts and agrmts herein contd and which on his or their pt and behalf are or ought to be done and performed then and in either of the sd cases it shall and may be lful to and for the trustees of the sd turnpike road for the time being or such psn or psns as they shall authorize or appt for that purpe into and upon the sd tolls gates toll-houses conveniences and preses with the apts or into or upon any pt thof in the name of the whole wholly to re-enter and the same to have again collect rece retain repossess and enjoy as in their former este and the sd (*lessee*) his, &c. and all or. collectors receivers and occupiers of the sd preses thereout and from thenceforth utterly to expel put out and remove and thereupon and from thenceforth to vacate and determine these prests or orwise to act in the preses as to them the sd trustees shall seem meet according to the directions and provisions in that behalf contd in and by the sd sevl Acts anything to the contrary thof hnbefe contd in any wise notwithstanding And the sd (*lessee and sureties*) do hby for themselves jointly and sevlly and for their sevl and respive hrs exs and ads covt, &c. That he the sd (*lessee*) his, &c. shall and will pay or cause to be pd unto, &c. or to such psn or psns as they shall appt the sd yrly rent of by, &c. witht, &c. as afd according to the true intent and meaning of these prests And also that the sd (*lessee*) his exs, &c. shall, &c. truly observe fulfil abide by and keep all the condons restrictions provisoes clauses and limitations resply limited imposed and decld in and by the sd sevl hnbefe recited Acts or either of them concerning or appertaining to collectors or gatekeepers or to the managing recovering or receiving the tolls or on any or. acct relating to or concerning the office of collector or gatekeeper And also shall and will from time to time and at all times during the sd term pay obedience to and perform all and evy such orders and directions as shall be legal and as the trustees of the sd turnpike road at any of their meetings during the time afd shall think expedient and proper

Covenants
by lessee
and sure-
ties.

to be done by them resply to the sd turnpike road and to the tolls to arise therefrom *And moreover* that at the expiration or sooner determination of, &c. he the, &c. shall, &c. quit yield and deliver up the posson of the sd toll-house [or toll-houses) and toll-bar [or 'bars'] and the rect and collection of the sd tolls to the trustees for the time being of the sd turnpike road or to such psn or psns as they shall appt for that purpe

In Witness, &c.

Form of a Lease for a further Term by way of Indorsement.

This Indre, &c. Betn the within-named (*lessor*) of the one pt and the within-named (*lessee*) of the or. pt *Witnesseth* that for and in conson of the rent, &c. and the covts hnafr, &c. which on the pt and behalf of the sd (*lessee*) his, &c. He the sd (*lessor*) *Doth* demise, &c. unto, &c. All that, &c. and all and singr or. the preses comprised in the within-written indre [except as therein is excepted] *To Have*, &c. the sd, &c. and all and singr, &c. hby demised, &c. [except as before excepted] unto the sd (*lessee*) his, &c. from, &c. which will be in the yr of and when the sd within-written indre of lease will expire for and during, &c. *subject* to and under the like rent and paye in like manner as is within mentd for and in respect of the rent reserved in and by the sd within-written indre of lease and subject to the like power of entry as well on nonpaymt of rent as on the happening of any of the other incidents mentd in the within proviso or condon of re-entry *And* it is hby decld and agrd by and betn the sd pties to these prests that they and their respive hrs exs ads and ass shall and will by these prests during the continuance of the conditional term of yrs hby granted stand and be bound in and by the sd indre of lease for and during the now residue unexpired of the within-mentd term hby granted it being the intent and meaning hereof that this present indorsed lease and the additional term hby granted shall be upon such and the like footing and all the covts clauses condons and agrmts therein resply contd be equally available take place and be of like force and effect to all intents and purps whatsr as if every article clause matter and thing contd in the sd within-written indre of lease were word for word repeated and again inserted in these presents

In Witness, &c.

LETTERS OF LICENCE.

Letter of Licence from Creditors to a Debtor.

Obs. As to this deed, see *Composition*, Pref. § 7 & 11.

To all, &c. we who have hereunto subscribed our names and affixed our seals being creditors of A B of, &c. send greeting *Whas* the sd A B on the day of the date hereof is indebted to us the sevl crs hereunder-named in divers sums of money which at present he is unable to pay and satisfy without respite and time to be given him for paymt thof *Now know ye* That we the sd sevl creditors and each and evy of us at the particular request of the sd A B *Have* given and granted and by this our present letter *Do* give, &c. unto the sd A B full and free liberty licence, &c. to follow and attend to any affairs business matters or things whatsr in any pt of the United Kingdom of G. B. and I. witht any let suit trouble arrest attachment or any or. impediment whatsr by us or any of us or by the hrs exs ads ptnrs and ass of us or any of us or by our or any of our means or procurement for and during six mths next and immly ensuing the day of the date thereof *And furr* we the sd creditors hereunto subscribed do and each of us doth covenant and grant for ourselves our hrs, &c. resply and not jtly or one for anor or for the hrs, &c. of each or. to and with the sd A B that we or any of us our hrs, &c. shall not nor will during the time afd sue, &c. (see *Composition*, vol. i. p. 297) within the afd term of next ensuing the date hereof by us or any of us the sd creditors or by any psn or psns by or through the procurement or consent of us or any of us contrary to the true intent and meaning of these prests And that if any hurt trouble wrong damage or hindrance be done unto the sd A B either in body goods or chattels within the afd term of next ensuing the date hereof by us or any of us the sd creditors or by any psn or psns by or through the procurement or consent of us or any of us contrary to the true intent and meaning of these presents then the sd A B by virtue hereof shall be discharged and acquitted for ever agst such of us the sd creditors his and their hrs exs ads or ass by whom and whose will means or procurement he shall be arrested attached imprisoned grieved or damaged of all manner of actions suits dues debts chas sum and sums of money claims and demands whatsr from the beginning of the world to the day of the date hereof *In Witness*, &c.

A Licence from a Lessor to a Lessee to Assign or Under-let.

Obs. 1. A parol licence will not be sufficient where one in writing is required; *Richardson v. Evans*, 3 Madd. 218; so a licence after breach is not good, unless by deed.

2. Where a licence to assign is once given by the landlord, the proviso will altogether cease, unless revived by an express stipulation to that effect in the licence, see *Leases*, Pref. § 13.

3. A common deed stamp, if under hand and seal; and an agreement stamp, if it be under hand only, and contain any proviso or restriction, otherwise no stamp appears to be necessary, 2 Bar. Suppl. 607. Stamp.

Know all men that we (*lessors*), &c. do hereby license authorize and empower (*lessee or exs of lessee*, &c.) to assign the messe or tent and preses comprised in and demised by a certain indre of lease bearing date, &c. with the appts unto (*assignee*) his exs ads and ass henceforth for the residue of the sd term of yrs then subject to the rents and covts reserved and contd in the sd indre and which are on the lessee's or tenant's part to be pd kept and performed (a) *Provided* (b) *nevvss* that this licence shall not be construed to extend to giving the sd (*assignee*) permission to make any further assignment under lease or disposition of the sd preses or any pt thof witht the like licence and consent of the sd (*lessors*) their successors or ass first had and obtained for that purpe *In Witness*, &c.

A Licence by the Lord to a Copyholder to Demise Copyhold Premises.

Obs. 1. As to the necessity of a licence, see *Leases*, Pref. § 3. If the lord be merely a tenant for life, and die, the term of years granted in consequence of such licence will determine with it; Co. Cop. s. 34; Gilb. Ten. 298. So likewise a lord may not grant a licence to a copyholder to demise for life, because such a demise would pass a freehold; Godb. 171, Ca. 236. Nor if a lord grant a licence to a tenant in tail, to demise for twenty years, and he demise accordingly, shall such demise bind the issue in tail; 2 Watk. Cop. 120; Kitch. 84, b.

2. The steward cannot grant such licence unless expressly authorized so to do by the lord; but any act of the latter, as signing the court book, or receiving the fine, will serve as a confirmation of the licence; 2 Watk. Cop. 118.

(a) If the licence be given without restriction, then say, 'unto any pen or pens any covenant clause or restriction or agreement then contd to the contrary notwithstanding *In Witness*, &c.'

(b) As to the necessity of this proviso, see *Leases*, Pref. § 13.

Stamp.

3. A 1*l*. stamp, where the clear yrly value of the land exceeds 20*s*.; if under that value, a 5*s*. stamp.

Manor of } *Be it Remembered* That on the day
 } of in the yr, &c. 18 the lord of the
sd manor out of court by his steward duly authorized (a)
on that behalf granted leave unto (*copyholder*) of, &c. one
of the customary tenants of the same manor to demise
and let all, &c. (describe preses particularly) unto any
psn or psns (or unto some particular psn named *as the
case may be*) whomsr willing to take the same for the
term of yrs to commence from the day of
next ensuing saving unto the lord his hrs and ass all
and all manner of fines rents services and customs
before due and of right accustomed to be pd with full
power for him and them from time to time and at all
times during the sd term to enter into the sd preses or
into any pt thof to seize distrain and take any distress
or or. lful remedy for recovering thof as freely as if the
licence had not been given And for this licence the
sd (C) hath given unto the sd lord the sum of
being pence for each yr of the sd term *In Wit-
ness, &c.*

Livery of Seisin.

§ 1. Livery of seisin is the delivery of corporeal possession of the land or tenement, Shep. Prec. 25, and is of two kinds, livery in deed, and livery in law. A livery in deed is where the feoffor taketh the ring of the door, or turf of the land, and delivereth the same upon the land to the feoffee in name of seisin of the land. But a livery may be made by words, without any act or ceremony at all, as the feoffor, being at the house door, or within the house, saith, 'I deliver you seisin and possession of this house in the name of seisin, and possession of all the lands and tenements contained in this deed.' Livery in law is when the feoffor saith to the feoffee, being within view of the house or land, 'I give you yonder land to you and your heirs, go enter into the same and take possession thereof accordingly;' Co. Litt. 48. Livery of seisin is necessary where any estate of fee simple or fee tail is granted by deed of feoffment, or an estate for life by a lease for life; Sheph. Prec. 25.

2. A man may either give or receive livery by his attorney, but such delegation of authority must be by deed; Co. Litt. 48; 3 Bac. Abr. 166. But the livery of seisin made by an attorney must be a livery in deed, and not in law; and it must be made in the lifetime of the parties; Co. Litt. 52, *b*; Sheph. Touchst. 218; except in the case of a corporation aggregate; Co. Litt. 52. The power of attorney may be either within the deed itself, whether it be indented or poll, and this also notwithstanding the attorney be no party to the deed; or the power of attorney may be given by a separate deed, (see *Power of Attorney*) Sheph. Touchst. 217.

3. After livery had and taken, either in person or by attorney,

(a) As to the authority of the steward, see Obs. 2.

a memorandum thereof must be indorsed on the deed in the following form :—

Registry
Acts.

Livery of Seisin by Feoffor to Feoffee.

Be it Remembered That on the day and yr first within-written peaceable and quiet posson and full seisin of the messes lds tents and hereds within-mentioned to be granted and enfeoffed to the within-named (*purchaser*) and his heirs were taken and delivered by him the within-named (*vendor*) [or, if by attorney, 'by A B in the name of and for the sd (*vendor*)] to the sd within-named (*purchaser*) [or, if taken by attorney, 'to the within-named C D in the name of and for the sd (*purchaser*)] *To Hold* the same unto and to the use of the sd (*purchaser*) and his hrs according to the tenor and effect of the within-written indenture in the presence of us whose names are hereunto subscribed

Memorandum of Livery of Seisin by One Corporation to Another.

Be it Remembered That this day of 18 peaceable and quiet posson, &c. of the piece or pcl of grd within-mentd to be granted and enfeoffed by the master warden and society of to the mayor and commonalty and citizens of was had taken and delivered by the within-named A B unto C D who is duly authorized to take and rece the same to and for the use of the sd mayor and commonalty and citizens of to hold the same unto and to the use of the sd mayor, &c. their successors and ass according to the form and effect of a certain indre, &c. in the presence of, &c.

MEMORIALS.

§ 1. By the 2 & 3 Anne, c. 4, and 5 Anne, c. 18, for the West Riding of Yorkshire; the 6 Anne, c. 35, for the E. Rid.; the 7 Anne, c. 20, for Middlesex; and the 8 G. II. c. 6, for the N. Rid. of York.; and by the 3 G. IV. c. 116, for Ireland; all deeds are declared to be fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless a memorial thereof be registered, as the several Acts prescribe. Before the registering of the memorial of the deed under which such purchaser or mortgagee shall claim, by the Irish Registry Act, all deeds not duly registered are declared to be fraudulent and void, not only as against deeds and conveyances registered, but also as against all creditors by judgment, recognizance, &c. It has been held that a deed of appointment is within the statutes of registry; *Scrafton v. Quincey*, 2 Ves. 413; and that the registering an assignment is not

As to deeds.

Bedford
Act.

to be considered as registering a lease; *Honeycomb v. Waldron*, 2 Stra. 1164. As to the equitable doctrine on these statutes, in respect to notice, see Sugd. V. and P. 8th edit. 704. By the 15 Car. II. c. 17, s. 8, no lease, grant, conveyance, or other charge upon the 95,000 acres of the Bedford Level, except leases for seven years or under in possession is to be of force, but from the time it shall be entered with the sd register, the entry thereof being indorsed upon the deed.

As to wills.

2. A similar provision is made by these Acts for the registering of wills as of deeds. If a deviser die in Great Britain, his will is to be registered within six months; but if he die beyond sea, it must be registered within three years after his death. In case the devisee in a will, by reason of any suppression or contest respecting the will or other difficulty, without wilful default, be disabled to register within the time specified, then by the Acts for the three Ridings of York, &c. a memorial within six months (or in the event of the deviser dying abroad within three years) after the removal of such impediment, will be a sufficient registry. But the 8 G. II. c. 6, for the N. Riding enacts, in the case of a concealed or suppressed will, no purchaser shall be defeated or disturbed, unless the will be registered within three years after the death of the deviser. By the 7 Anne, c. 20, s. 9, for Middlesex, a memorial of any impediment shall be entered within two years after the death of a deviser (or, in the event of his dying abroad, within four years after his death) and a memorial within six months after the removal of the impediment will be good; but no purchaser is to be defeated or disturbed by a concealed will, unless it be actually registered within five years after the death of the deviser.

As to judgments and recognizances, &c.

5. By these several Acts no judgment, &c. except on account of his Majesty, shall affect or bind any estates in the three Ridings of Yorkshire, Kingston-upon-Hull, and Middlesex, but only from the time that a memorial thereof shall be registered. The clause in the 7 Anne, c. 20, s. 18, for Middlesex, is general; but the 5 Anne, c. 18, s. 11, and 6 Anne, c. 35, s. 28, for the E. and W. Riding of York and Kingston-upon-Hull, provides that a registry within thirty days after signing the judgment, &c. will be sufficient, and the 8 G. II. c. 6, s. 33, limits the time to twenty days. (As to Memorials of Annuities, see *Annuity*, vol. i. p. 84.) By the 29 Car. II. c. 3, s. 18, the day of the month and the year of the enrolment shall be set down in the margin, and no recognizances will bind lands in the hands of any purchaser, *bona fide* and for valuable consideration, but from the time of enrolment.

Exceptions from the Acts.

4. From the above Acts are excepted leases at a rack-rent, and all leases not exceeding one and twenty years, when the actual possession and occupation goes along with the lease. Under this clause it is considered, that where a lease for twenty-one years is assigned, it is out of the exception, and ought to be registered; Sugd. V. & P. 703. By the 7 Anne, chambers in Sergeant's Inn, and the Inns of Court and of Chancery, are also excepted.

Mode of registering.

Deeds and wills.

5. The memorial, written or engrossed upon parchment or vellum, must contain the date of the deed, the names and additions of the parties, and the premises, which are to be described verbatim, with the places where the premises lie; to which are usually added some other particulars, as the nature of the deed, the consideration, and the party to whom the estate is conveyed, which are added by way of precaution, although not required by the Acts. If there be more deeds than one, the parcels need be specified in one memorial only, to which the others may refer. The memorial must be under the hand and seal of some or one of the grantors or grantees, his, her,

or their heirs, executors, administrators, guardians, or trustees, in the case of deeds; and some or one of the devisees, his heirs, &c. in the case of wills; and be attested by two witnesses, one of whom is to be a witness to the execution of the deed or will, and to make oath before one of the Registrars or a Master in Chancery, of the execution of the deed or memorial. The deed or will is to be produced to the registrar at the time of entering the memorial, who is to endorse a certificate thereon, which when signed by him is to be admitted as evidence in all courts of record. It has been said; that if any deed has been neglected to be registered until all the witnesses are dead, the re-execution of the deed by one of the parties will be sufficient to effectuate the registry, *Ridgely on Reg. 70*; but the validity of this proceeding has been justly questioned. *Sagd. V. and P. 697, 8th edit.*

6. The memorial of any judgment, &c. is to contain the names and additions of the plaintiff and defendant, the sums thereby recovered, and the day and year on which such judgment was signed; and in the case of recognizances, the date, names, and additions, of the cognizor and cognisee, for what sum, and before whom acknowledged. The memorial must be produced before the registrar with a certificate written underneath, signed by the proper officer of the court wherein the judgment is obtained, and also an affidavit written underneath, sworn before a Judge at Westminster or a Master in Chancery, that such certificate was duly signed by the proper officer, whose name shall appear thereto.

Judgments,
&c.

7. In the case of paying off any monies due on mortgage, judgment, statute, or recognizance, a certificate signed by the mortgagee, plaintiff, or cognizor, (and for the E. and W. Ridings of Yorkshire, &c. by both mortgagor and mortgagee, &c.) his, her, or their executors, administrators, and assigns, and attested by two witnesses, whereby it shall appear that all monies due upon such mortgage, &c. have been paid, must be produced before the registrar, and the witnesses are upon their oaths to prove that such monies are satisfied or paid accordingly, and that they saw such certificate signed by the parties. The registrar then, upon the deed so to be discharged being produced, will endorse his certificate thereon, and also make an entry in the margin of the book wherein such mortgage, &c. shall be registered, that the same was satisfied and discharged according to the certificate, and file such certificate, to remain upon record in the register office.

As to mort-
gages, &c.
paid off.

8. A memorial of deeds or wills made in London which concern lands in Yorkshire, may be registered, on the affidavit of one of the witnesses to the execution of the deed or will. By the Irish Registry Act all deeds, &c. to be registered in Ireland, the memorials whereof shall be proved in England, are to be proved before one of the commissioners extraordinary of the Court of Chancery in Ireland for taking affidavits in Great Britain. And in order to prevent the necessity of transmitting the deed to Ireland, the Act directs that a copy (upon unstamped paper or parchment) of the original memorial shall (together with the deed or memorial) be produced to the commissioner, and the execution of the memorial shall be proved, and the copy verified upon oath to be made before him by the witness to the deed and memorial. For the forms under the Irish Registry Act, see the 3 G. IV. c. 116.

Registering
in London
for York-
shire.
For Ireland.

9. By the last Stamp Act, 55 G. III. c. 184, memorials of deeds and conveyances are subject to a stamp of 10s. and for every piece of vellum and parchment after the first, to the further progressive duty

Stamp.

MEMORIALS.

of 16s. The original memorial of Irish deeds and affidavits are subject to the Irish stamp duty. (As to the stamp for memorials, of Annuities, see *Annuities*, vol. i. p. 86.)

Memorial of a Lease for a Year.

Obs. As to what deeds to be registered, see Pref. § 1; as to the exceptions, § 4; as to the stamp, § 9.

A Memorial to be registered pursuant to the Act of Parliament in that case made and provided of

An Indenture bearing date the day of in the year of our Lord 18 and made Betn (a) I F of, &c. (here insert the description) of the one pt and R B of, &c. (here insert the description) of the or. pt purporting to be a lease for a yr to vest the posson of and concerning *All that messe or tent* with the appts situate lying and being in in the sd county of Middlesex late in the tenure and occupation of called or known by the name of and all buildings yards gardens ways easements prfts commodities and appts whater to the sd preses belonging or appertaining and the revn and revns remr and remrs rents issues and prfts of the sd preses which sd indre of lease as to the execution thereof by the sd I F and R B is witnessed by A B of in the parish of in the county of gent and C D of gent and is hby required to be registered by the sd I F the grantor As witness his hand and seal the day of 18 I F

Signed and sealed } C D
in the presence of } G H of, &c.

Of a Release.

A Memorial to be registered pursuant to Act of Parlmt, &c. of

An Indre dated the day of 18 and made betn I F of, &c. of the one pt and R B of, &c. of the or. pt Purporting to be a rele of all and singr the same (b) preses mentd in a lease for a yr bearing date the day next before the day of the date of the rele and made, &c. a memorial of which is registered at the same time herewith which indre of rele as to the exon thereof is witnessed by, &c. and is hby required, &c. to be registered by the sd I F the grantor in the sd deed *As Witness, &c.*

(a) As to the contents of the memorial of deeds and wills, see Pref. § 5.

(b) As to the mode of specifying parcels, where there are more deeds than one, § 5.

*Of a Bargain and Sale to be enrolled.**A Memorial, &c. (as before) of*

An Indenture bearing date, &c. and made betn I A of, &c. of the one pt and P P of, &c. of the or. pt Purporting to be a deed of bargain and sale to be enrolled of and concerning the same preses mentd in a lease for a yr bearing date the day next before the day of the date of the sd indre of bargain sale (or *as the date is*) and made betn the sd I A of the one pt and the sd P P of the or. pt a memorial whereof is registered at the same time herewith which indre of bargain and sale is witnessed by T R of and I W of and is hby required to be registered by me the sd I A the grantor in the sd deed of bargain and sale named *As Witness, &c.*

Signed, &c.

*Of a Lease for Years.**A Memorial, &c. (as before) of*

An Indre of lease bearing date, &c. and made betn A B of, &c. of the one pt and C D of, &c. of the or. pt *Whby* the sd A B for the consons thereinmentd did demise to the sd C D *All that* situate, &c. now in the tenure or occupation of C D *To Hold* for the term of yrs to commence from at the yrly rent of of good and lful money, &c. which sd indre as to the execution thereof by the sd A B and C D is witnessed by and is hby required to be registered by me the sd C D the lessee in the sd indre *As Witness, &c.*

Signed, &c.

*Of Lease and Release to be registered in one Memorial.**A Memorial, &c. of*

Certain Indres of lease and rele bearing date resply the days of and made, &c. betn S M of, &c. of the first pt M D of, &c. of the second pt and T B of, &c. and I B of, &c. of the third pt *Whby* the sd S M for the conson thereinmentd did grant rele and convey unto the sd T B and I B *All those* pces or pcels of grd messes or tents and hercdts with the apts situate in the parish of in the county of and mentd and described in a certain indre of rele bearing date the, &c. and made betn I S, S G and I B of the one pt and the sd M D of the or. pt a memorial whereof was registered on the day of in B. 3, No. 36. *To Hold* unto the sd T B and I B *To the use* of the sd M D her hrs and ass until her intended marre shd be had and solemnized and from and after the solemnization thereof *To the use* and behoof of S M his hrs and ass which sd first

MEMORIALS.

mentd indres of lease and rele as to the execution thereof by the sd SM and T B and I B are witnessed by I S of, &c. and I T of, &c. gent and the same are hby required to be registered by the sd S M *As Witness* his, &c.

Signed, &c. S M

Of a Mortgage in Fee.

A Memorial, &c. (as before) of

Certain Indentures of lease and rele bearing date resply, &c. and made betn (*mortgagor*) of, &c. of the one pt and (*mortgagee*) of, &c. of the or. pt Whby the sd (*mortgagor*) for the consons thereinmentd did grant bargain sell and rele unto the sd (*mortgagee*) *All those, &c. (parcels)* *To Hold* unto the sd (*mortgagee*) his hrs and ass subject nevss to a proviso for redemption upon payment of the sum of £— and lful int on the day of which sd indres as to the exon thereof by the sd (*mortgagor*) and (*mortgagee*) is witnessed by, &c. and are hby required by the sd (*mortgagor*) the grantor to be registered *As Witness, &c.* Signed, &c.

Of a Mortgage for Years.

A Memorial, &c. (as before) of

An Indre of mortge bearing date the day of and made betn, &c. A B of, &c. of the one pt and C D of, &c. of the or. pt whby the sd A B for and in conson of £— demised unto the sd C D *All* situate, &c. and called or known by the name of now in the tenure of L M *To Hold* unto the sd C D for the term of yrs subject nevss to a proviso that the same shall be void on payment of the sd sum of £— and lful int for the same on the day of 18 which sd indre of mtge is witnessed by R S and is hby required to be registered by me A B the grantor in the sd deed *As Witness, &c.* Signed, &c.

Of an Indorsement.

A Memorial, &c. of

An Indorsement dated the day of 18 made from I E of, &c. and W R of, &c. on the back of a mtge deed dated the day of 18 and made betn the sd I E of the one pt and the sd W R of the or. pt a memorial whereof was registered on the day of in B. No. of and concerning *All* those the messes and preses therein parlarly mentd and described which sd indorsement is witnessed by I C of and R W of and is hby required to be registered by me the sd I E the grantor *As Witness, &c.*

Signed, &c.

Of an Assignment of a Term to attend the Inheritance conveyed by Lease and Release.

Obs. As to the propriety of registering an assignment of every lease, see Pref. § 4; as to stamp, see § 9.

A Memorial, &c. (as before) of

An Indenture of assignment bearing date, &c. and made betn, &c. (assignor) of, &c. of the first pt (vendor) of, &c. of the second pt (purchaser) of, &c. of the third pt and (assignee) of, &c. of the fourth pt Purporting to be an assignment of the residue of a term of years granted to the sd (assignor) of and in certain preses lying, &c. in the sd county of mentd in an indre of lease made betn, &c. the sd (V) and the sd (P) a memorial whereof is registered at the same time herewith and which sd term is assd to the sd (assignee) in trust and to attend and wait upon the freehold and inhance of the sd preses by the sd indre of lease and the rele thereupon conveyed to the sd (purchaser) and which sd indre of assignment as to the execution thereof by the sd (assignor) and (assignee) (V) and (P) is witnessed by, &c. and is hby required to be registered by the sd (purchaser) As Witness, &c. Signed

Of a Will.

Obs. As to the registering of wills, see Pref. § 2, as to the memorials, &c. see § 4.

A Memorial, &c. of

The last Will and Testament of I F late of bearing date, &c of and concerning All that messe or tent in late in the tenure or occupation of G L of and concerning all the lds tents or heredts which the sd I F died possessed of in the county of which sd will is witnessed by I G of and T W of and E F of This memorial is therefore desired to be registered pursuant to the statute by me E L one of the devisees in the sd will mentd As Witness, &c.

Signed, &c.

Of a Judgment.

Obs. As to the registering of judgments, &c. see Pref. § 3; as to the memorials, &c. § 6; and the stamp, § 9.

A Memorial, &c. of

A Judgment in his Maj. Ct of of term in the yr of the reign of betn I W gent plaintiff and W G esq. (or W G of, &c. esq., &c. as the case may be) of a plea of debt for £ — and £ — costs

MEMORIALS.

I do hby certify that judgment was signed in this
cause the day of E B

In the King's Bench.

I G of, &c. maketh oath that he saw E B esq.
secondary of the Ct of K.B. (a) sign the certificate of
the judgment in the memorial

Of a Statute.

Obs. As to the registering of statutes, see Pref. § 3, 6 and 9.

A Memorial, &c. of

W H of the parish of in the county of
gent at the city of in the county of before I G
esq. mayor and T W clerk acknowledged himself to owe
W A of the parish of in the county of gent £ —
to be pd unto him the sd W A the day of

I do hby certify that the statute abovementd was
enrolled the day of T W

L M clerk to W N of, &c. gent maketh oath that
he saw T W clerk of the statutes sign the certificate
abovementd Sworn, &c. L M

Of a Recognizance in Chancery.

Obs. As to the registering recognizances, see Pref. § 3 and 6.

A Memorial, &c.

I M of the parish of in the county of esq.
before the lord the King in his Chancery acknowledged
himself to owe I P of, &c. merchant £ — dated the
day of

I do hby certify that the recognizance abovementd
was enrolled in the High Ct of Chancery the
day of R R

W W clerk to M R of maketh oath that he saw
R R sworn clerk to execute the office of enrolment in
the High Ct of Chancery for the county of Middlesex
sign the certificate abovementd

Sworn, &c.

W W

A Certificate of Mortgage Money being paid.

Obs. As to the proceeding in this case, see Pref. § 7.

To the Registrar for the county of Middlesex.

I W of, &c. do hereby certify that W D of, &c. hath
pd and satisfied all such sum and sums of money as were
due and owing upon a mtge made by the sd W D to me
bearing date the day of and registered at

(a) If in the Common Pleas, 'E B esq. one of the prothonotaries
of the Ct of CP sign,' &c. If in the Exchequer, 'E B esq. Clerk of
the Pleas of the Exchequer, sign,' &c.

of the clock in the forenoon of the day of
 following in full discharge of the same And I do hereby
 require an entry of such payment and satisfaction to be
 made pursuant to the Act of Parliament in that case
 made and provided *As Witness* my hand this
 day of I W
 Signed in the presence of W M of, &c.

J H of, &c.

An Entry of the said Certificate.

Memorandum That upon the certificate of the within-
 named I W dated the day of proved by the oath
 of W M of and I H of that all monies due
 upon the within mortgage is fully paid and satisfied in
 discharge of the same this entry in discharge thereof is
 made pursuant to the sd Act of Parliament this
 day of B B registrar

MORTGAGES.

§ 1. A mortgage is a conveyance by way of pledge of all a man's right or title in lands or goods for securing the payment of money borrowed and interest, with the condition to be void on payment of principal and interest at the day appointed; and answers to the *mortuum vadium* at common law. Formerly, when an estate was made over to another until he had repaid himself out of the rents and profits, both principal and interest, this was called a *vivum vadium*, Litt. sect. 332. In more modern times there has been a kind of security called a Welsh mortgage, which differed from the *vivum vadium* in this, that the rents and profits were applied in satisfaction of the interest only, and not of the principal. The *vivum vadium* is entirely out of use, and the Welsh mortgage is now very rarely used. There is another class of mortgages termed equitable mortgages, which arise upon an agreement to mortgage accompanied with a deposit of title deeds, or simply upon a deposit of deeds without any express agreement. This kind of mortgages was first established by the case of *Russell v. Russell*, 1 B. C. C. 209.

Definition.

Welsh mortgage.

Equitable mortgages.

2. No particular form of words or conveyances is necessary to constitute a mortgage. If upon the whole it appears to be the intention of the parties that the conveyance should be a security for money, it is considered in equity as a mortgage, *Howard v. Harris*, 1 Vern. 190; and a mortgage is redeemable in its nature, even although there is an express agreement of the parties that it shall not be so, or that the right of redemption shall be confined to a particular time or to a particular description of persons, Co. Litt. 205, n. 1; *Spurgeon v. Collier*, 1 Ed. 59.

What constitutes a mortgage.

3. All parties who are capable of contracting in general, and not under any legal disabilities, (see *Agreements*, Pref. § 2) may mortgage their estates to the extent of their interest, whether tenants in fee simple, tenants for life, or tenants in tail, (see *Pines and Recoveries*, Pref. § 3, vol. ii. p. 87.) Some who have no beneficial interests may also be enabled to mortgage, as trustees and executors under a power of sale. Before the 6 G. IV. c. 94, a factor might sell, but could not pledge the goods of the principal; but by

Who can mortgage.

that statute it is lawful for a factor to pledge the goods of the principal to the extent of the interest which he himself has in them.

What may be mortgaged.

Adwosons.

Equity of redemption.

Tithes, &c.

Ships.

Modes of effecting mortgages.

Mortgages in fee.

Mortgages by demise.

Copyholds.

Lenseholds.

Goods.

4. Every species of property, real or personal, which may be granted or assigned, may be the subject of a mortgage, (see *Assignments and Grants*.) An adwoson may be aliened by way of mortgage under certain restrictions, (see *Grant of an Adwoson*, vol. ii. p. 128.) An equity of redemption being the ancient estate in the land, may be itself the subject of a mortgage; but, to prevent abuses, the 4 and 5 W. and M. c. 16, provides that the making of any subsequent mortgage without giving notice to the intended mortgagee, by writing under the mortgagor's hand, of every mortgage already made by him of the same land, is punished by forfeiture of the equity of redemption to the person thus defrauded.

Tithes, glebe lands, and church benefices, may, by the 17 G. III. c. 53, amended and enlarged by the 20 G. III. c. 66, and the 5 G. IV. c. 89, be mortgaged with the consent of the patron and ordinary, for the purpose of repairing or rebuilding the parsonage. A mortgage of goods or chattels personal, *bona fide*, and for valuable consideration, is good; but the 13 Eliz. c. 5 and subsequent statutes, which make retention of possession by the vendor, a badge of fraud, apply equally to the mortgagor. The mortgage of ships is regulated by the Registry Act, the 6 G. IV. c. 110.

5. The modes of effecting mortgages depends upon the nature of the property mortgaged. Mortgages of freeholds are of two kinds; namely, mortgages in fee, viz. of the freehold or inheritance, and mortgages by demise. Mortgages in fee were at first subject to inconveniences, as if the money were not paid at the day the estate became absolute at law, subject to the dower of the wife of the feoffee and all his other charges and incumbrances, although the money was afterwards paid to and the estate reconveyed by the feoffee, Co. Litt. 221; but since courts of equity have maintained the right of redemption, mortgages in fee have again become usual. They may be made by feoffment, and bargain and sale, but more commonly by lease and release, appointment and release, or appointment only. Mortgages for terms of years, which were free from the inconveniences attending mortgages in fee, were formerly made by way of demise and re-demise, now simply by a demise of the land for a term, under a condition to be void on the payment of the mortgage money and interest, with a covenant that, until default shall be made in payment of the money, the mortgagor shall receive the rents, issues, and profits, without account, 3 Bac. Abr. 633. Mortgages for terms have this advantage, that the term and the right in equity to receive the mortgage debt vest in the same person, namely, the personal representative of the mortgagee; but in the case of a mortgage in fee, the estate, on the death of the mortgagee, goes to his heir or devisee, and the money is payable to his executors. On the other hand, in the case of a mortgage for years, if the estate is foreclosed, the mortgagee will be entitled to a term only, with all its disadvantages, Co. Litt. 205, n. 1; unless, as is frequently done, it be provided in the deed, that the mortgagor shall convey the fee to the mortgagee, or, to prevent a merger of the term, to such person as he shall appoint. Mortgages of copyholds retain in general their primitive form, and are effected in the same manner as in the case of purchases, (see *Precedents*.) When leaseholds are made a mortgage security, they are made either by feoffment, livery of seisin, or by lease and release, if they are leases for life; and by assignment or under-lease, if they are leases for years; but as to the mortgage of leaseholds, see further *Precedents*. Mortgages of goods and chattels may be made by assignment, bargain and sale, and conditional bill of (see *Assignment, Bill of Sale and Shipping*.)

6. A mortgage deed resembles a purchase deed in most respects, so far as the testatum or witnessing part, but differs very materially in the provisos or covenants. The delivery of the deeds as a part of the grant is essential for the protection of the mortgagee. If he leave the deeds in the hands of the mortgagor, he is considered as aiding him in the commission of a fraud, and will be postponed to a subsequent incumbrancer, who may have obtained the deeds, *Goodtitle v. Morgan*, 1 T. R. 755. The proviso for redemption, being one of the principal marks of distinction between a mortgage and an absolute sale, is never omitted. The mortgagor usually enters into a covenant for the repayment of the mortgage money at a certain time and place. The appointment of a certain place is material, as without such a stipulation the mortgagor would be obliged to tender the money to the mortgagee in person, *Co. Litt.* 210. As a mortgage, though in fee, is considered in equity only as personal estate, the mortgage money is paid not to the heir but to the executor, although the covenant be for payment to the heirs or executors, *Thornborough v. Baker*, 1 Ch. Ca. 283. S. C. 2 Freem. 143; and also 3 Swanst. 634, from *Ld. Nottingham's MSS.* On the same principle the executor of a mortgagor is bound to redeem for the benefit of the heir, because the money borrowed had increased the personal fund, *Wolston v. Aston*, Hard. 512; *Howel v. Price*, 1 P. Wms. 291; *Cope v. Cope*, 2 Salk. 449; *Gower v. Mead*, Prec. Ch. 2. And if the mortgagor do not redeem, the personal representatives of the mortgagee will be entitled to the land, *Ellis v. Greaves*, 2 Ch. Ca. 50; unless it appears to have been the intention of the mortgagee that it should go as real estate, *Noys v. Morraunt*, 2 Vern. 581. Sometimes, in addition to the covenant to pay, a bond is given by the mortgagor; but as, in ordinary cases, this does not add much to the security, it is deemed to be an unnecessary expense. A warrant of attorney usually accompanies the mortgage deed as a collateral security. (As to the bond and warrant of attorney, &c. see further, *Annuity*, Pref. § 8.)

Covenant
to repay.

Bond.

7. Covenants for title in a mortgage, must be made with the mortgagee, his heirs and assigns, and not as in a covenant, to pay him, his executors, administrators, and assigns, because the latter is only a personal covenant; but the former runs with the land; such covenants must likewise always be general, i. e. not restricted by the words, 'For and notwithstanding,' &c. to the acts of any particular person.

Covenants
for title.

8. Several other covenants are usually added, as occasion requires, as a covenant to insure, which can seldom be omitted with safety. A covenant, authorising the mortgagor to grant leases, may, in some instances, be necessary; and as a mortgagor in possession is restrained from committing waste, *Henson v. Derby*, 2 Vern. 392; *Robinson v. Litton*, 2 Atk. 210; a proviso either to restrain him from selling timber, or to authorise him to do it, may in some cases be advisable. To these may occasionally be added, a covenant for the abatement of interest; and a covenant that mortgage money shall remain for a certain time upon the security of the premises. (See *Gen. Precedent and Notes*.)

Special
covenants.

9. As soon as the estate of the mortgagee is created by the conveyance, he may immediately enter upon the lands, but actual possession is seldom taken, as the mortgagee is liable to be dispossessed by payment of the mortgage money at the time limited. It is usual, therefore, to insert a covenant in the deed, that the mortgagor shall receive the rents and profits, until default shall be made. A mortgagor, however, holds the mortgaged premises by the will or permission of the mortgagee, who, it has been held,

Estate of
the mort-
gagee.

is entitled by ejectment, and without notice, to recover against him or his tenant; *Keech v. Hall*, Dougl. 21. *Moss v. Gallimore*, ib. 266; 1 T. R. 378.

Fore-
closure.

10. After the day of payment is past, the mortgagee may call on the mortgagor in a court of equity to redeem his estate, or in default thereof, to be for ever foreclosed; that is, barred from any further right of redemption, *Bonham v. Newcombe*, 1 Vern. 232; 2 Vent. 364; and may file a bill of foreclosure without taking possession, *Lord Penrhyn v. Hughes*, 5 Ves. 106; and if out of possession, he may, except under particular circumstances, bring an ejectment at the same time that he has a bill of foreclosure depending, *Booth v. Booth*, 2 Atk. 343; but the 7 G. II. c. 20, provides in favour of mortgagors, that if the person having a right to redeem, shall at any time, pending an action, pay the mortgagee, or in case of his refusal, bring into court the principal and interest with all costs, the monies so paid or brought into court, shall be in full discharge of the mortgage. And in all suits in equity for foreclosure, courts of equity may, in like case, make such a decree before hearing, as they could have made after. To obviate the inconveniences and delays which attend bills to foreclose, it is now a frequent practice to frame the conveyance so as to enable the mortgagee, after a given time, to procure his principal and interest by a sale of the mortgaged premises. Sometimes, instead of a power of sale, the estate is conveyed to a trustee or trustees in trust, to reconvey the same to the mortgagor on a given day, if he repay the money on that day; but if he do not, then in trust to sell the estate, pay the principal, interest, and expenses, and hand the surplus to the mortgagor; and it is now decided, that where a mortgagee, or a trustee for him, is empowered to sell in default of payment of mortgage money, he may make a good title to a purchaser, although the mortgagor do not join in the conveyance, provided such power be given to him by the terms of the deed; *Corder v. Morgan*; 18 Ves. 544. *Clay v. Sharp*; Sugd. V. & P. Appendix, N. 14. A trustee in such case, is bound to give notice to the mortgagor, of his intention to sell, Anon. 6, Madd. 10; but a mortgagee is not under the same obligation. A liberty to buy-in the property offered for sale by auction, under a power of sale, ought to be inserted in the mortgage deed, to protect the mortgagee or trustee for sale; *Ex parte Lewis*, 1 Gl. and Jam. 69. A proviso for foreclosure, notwithstanding a power of sale, is frequently inserted, and is, as it should seem, good; *Hodgson ex parte*, 1 Gl. & Jam. 12.

Power of
Sale.

Stamp.

11. By the 55 G. III. c. 184, any mortgage, conditional surrender by way of mortgage, further charge, disposition, assignation, or tack in security; also any conveyance of lands in trust to sell, which shall be intended only as a security; also any agreement with a deposit of title deeds by way of security, or any defeasance, &c. which shall be apparently absolute, but intended only as a security, &c. where the same shall be a security for the payment of any definite and certain sum of money advanced or lent at the time or previously due, not exceeding 50*l.* the stamp of 1*s.* above 50*l.* and not 100*l.*, 1*s.* 10*s.*; above 100*l.* and not 200*l.*, 2*s.*; 300*l.*, 3*s.*; above 300*l.* and not 500*l.*, 4*s.*; above 500*l.* and not 1000*l.*, 5*s.*; above 1000*l.* and not 2000*l.*, 6*s.*; above 2000*l.* and not 3000*l.*, 7*s.*; above 3000*l.* and not 4000*l.*, 8*s.*; above 4000*l.* and not 5000*l.*, 9*s.*; above 5000*l.* and not 10,000*l.*, 12*s.*; above 10,000*l.* and not 15,000*l.*, 15*s.*; above 15,000*l.* and not 20,000*l.*, 20*s.*; and above 20,000*l.*, 25*s.*; and where the same shall be made as a security for money thereafter to be lent, and the total amount of the money secured, shall be uncertain and without any limits,

then also the duty of 25*l.*; but when the sum is so limited as not to exceed a certain amount, then the duty is to be the same as for a sum certain; where several distinct deeds are made at the same time, for securing the payment of one and the same sum of money, the *ad valorem* duty, if it exceed 2*l.*, is to be charged only on one such deed, and the rest are to be charged with the duty to which they may be liable under any more general description. (See *Bonds*, vol. i. p. 261; and *Further Charge*, vol. ii. p. 125.) As to the mode of exonerating premises from a mortgage debt in a registering county, see *Memorials*; and as to mortgages in general, see *Powel on Mortgages*, *Cov. Edit.*; *Coote on Mortgages*, *Patch on Mortgages*, and *Wilmot on Mortgages*.

Of
Freeholds.

Mortgage in Fee. (General Precedent.)

Obs. As to a mortgage in fee, see Pref. § 5; as to the stamp, see § 11.

This Indre made, &c. Betn (mortgagor) of, &c. of the one pt and (mortgagee) of, &c. of the or. pt Whas (a) the sd (mortgagor) is seised of or orwise well entitled to the messes pieces and pcles of ld and heredit hnaft described and intended to be hby granted and reld and the inhance thof in fee simple free from incumbs And whas the sd (mortgagee) at the request of the sd (mortgagor) hath agrd to advance and lend him the sum of £ — (b) on the secty of the same messes pieces and pcles of ld and heredit Now this Indre Witnesseth That in pursuance of the sd agrmt and in conson of the sum of £ — of lful, &c. to the sd (mortgagor) in hand, &c.

Recital of
seisin.

(a) Or, *Whas by indres of lease and rele bearing date resply the and the days of which was in the yr the rele made betn, &c. the messes, &c. were for the consons therein mentd conveyed and assured unto the sd (mortgagor) and his hrs in fee-simple.*

(b) *If there be also a bond and warrant of attorney, (see Pref. § 6) then say, 'on having the same secured to him the sd (mortgagee) by the grant and release of the same mcases, &c. and also by the bond and warrant of attorney of the sd (mortgagor) And whas in pursuance of the sd agrmt the sd (mortgagor) by his bond or obligation in writing bearing even date with these preats hath become bounden to the sd (mortgagee) in the penal sum of £ — with a condition for making void the same on the paymt of £ — and int at the time and in the manner in the sd condition mentd And whas in furr pursuance of the sd agrmt the sd (mortgagor) hath exted a warrant of attorney bearing even date with the sd bond and these preats thereby authorizing certain atties of his Maj. Court of Common Pleas at Westr to enter up judgmt by deft upon an action of debt upon the same bond for the sd sum of £ — and costs' If it be so agreed, add also, 'And whas upon the treaty for the sd loan it was agrd that the sd messes, &c. should be made a secty to the sd (mortgagee) not only for the sd sum of £ — but also for any furr sums which the sd (mortgagee) might advance to the sd (mortgagor).' In this latter case, if there be a bond and warrant of attorney, it must be varied accordingly, to embrace other sums which may be advanced.*

Of Freeholds in Fee. by the sd (*mortgagee*) pd, &c. He the sd (*mortgagor*) Hath granted bargained sold and released and by, &c. Doth grant, &c. unto the sd (*mortgagee*) his hrs and ass *All those* messes, &c. togr with all houses outhouses, &c. (general words) And the revn, &c. And all the este, &c. which sd messes and preses hby reld or orwise assured or intended so to be are now in the actual possession of the sd (*mortgagee*) by virtue of a bargain and sale to him thof made by the sd (*mortgagor*) in conson of 5s. by indre bearing date the day next before the date of these prests for the term of one whole year commencing from the day next before the date of the same indre of bargain and sale and by force of the statute made for transferring uses into possession (*a*) *To Have and to Hold* the sd messes pieces and parcels of ld, &c. and all and singr or. the preses hby granted and reld or orwise assured or intended so to be with their apts unto the sd (*mortgagee*) his hrs and ass to the only proper use and behoof of the sd (*mortgagee*) his hrs and ass for ever *Subject* nevss to the proviso or agrmt hnaft contd for the redemption of all the preses that is to say *Provided* (*b*) *Always* and it is hby agrd and decld betn and by the sd pties hereto that if the sd (*mortgagor*) his hrs exs ads or ass or any of them do and shall well and truly pay or cause to be pd unto the sd (*mortgagee*) his exs ads or ass at or in the Common Hall of the Inner Temple in the co. of the sum of £ — of lful, &c. on the day of with int for the same after the rate of £ — per cent. per ann. in the mean time by half-yrly paymts on the day of now next ensuing witht any deduction or abatement for or in respect of any taxes chas assessments taxed charged or imposed or to be taxed, &c. upon the sd messes pieces or parcels of land heredit and preses hby reld or orwise assured or intended so to be or any pt or pts thof or for or in respect of any or. matter cause or thing whatsr (*c*) Then and in that case the sd grant and release hby made shall cease and be void to all intents

Habendum.

Proviso for redemption.

(a) For different forms of referring to the bargain and sale, see *Release, General Precedent*.

(b) As to the proviso for redemption, see Pref. § 6.

(c) If the mortgage be also to secure further advances, say, 'And in case the sd (*mortgagee*) his exs or ads shall at the request of the sd (*mortgagor*) advance or lend him any further sums of money not exceeding in the whole with the sum of £ — already due and owing the sum of £ — and the sd (*mortgagor*) his exs ads or ass do and shall within the space of six mths thereafter well and truly pay or cause to be pd to the sd (*mortgagee*) his exs, &c. all such furr sums so advanced with int on all such sums from the resptive times of such advancement after the rate and in manner afd Then, &c.' *as above*.

and purps whater and he the sd (*mortgagee*) his hrs, &c. shall and will at the request costs and chas of the sd (*mortgagor*) his hrs or ass convey and assure the sd messes pieces or parcels of, &c. and preses expressed to be hby granted or released with the apts unto and to the use of the sd (*mortgagor*) his hrs or ass or orwise as he or they shall direct or appt free from all incumbrs in the mean time to be made done or committed by the sd (*mortgagee*) his hrs and ass or any pen or pens claiming or to claim by from through or under him them or any of them [so as for the doing thof he they or any of them shall not be compelled or compellable to go or travel from his her or their usual place of abode] And (a) the sd (*mortgagor*) doth hby for himself his hrs exs ads and ass covenant promise and agree with and to the sd (*mortgagee*) his hrs and ass that he the sd (*mortgagor*) his hrs exs ads or ass or some or one of them shall and will well and truly pay or cause to be pd unto the sd (*mortgagee*) his exs ads and ass the sum of £ — of lful, &c. (a) with int for the same after the rate afd free from taxes and witht any deduction at the place and on the days and in the manner hafee appted for paymt of the same according to the form and effect of the afd provo and the true intent and meaning of these prests And (b) the sd (*mortgagor*) doth hby for himself his hrs exs and ads also covt grant promise and agree with and to the sd (*mortgagee*) his hrs and ass in manner following that is to say That he the sd (*mortgagor*) is at the time of the sealing and delivery of these presents, &c. lfully and rightfully seised of, &c. the sd messes, &c. for a good and indefeasible este of inhance in fee-simple witht any manner of condon or limitation of uses and trusts to defeat alter change charge or determine the same And that he the sd (*mortgagor*) now bath in himself good right full power and lful and absolute authty to grant bargain sell release and convey the sd messes pieces and pcls of ld and heredit hby reld or orwise assured or intended so to be with their apts unto and to the use of the sd (*mortgagee*) his hrs and ass in manner afd and according to the true intent and meaning of these prests And also that if deft shall be made in paymt of the sd sum of £ — or the int thof or any pt thof resply contrary to the afd provo or agrmt for paymt of the same and the true intent and meaning of these prests

Of
Freeholds
in Fee.

Covenant
to pay
mortgage
money, &c.

Covenants
for title.

Lawfully
seised.

Good right
to convey.

Quiet en-
joyment.

(a) If there be also future advances, say, ' And also all such furr sums of money as shall become due and owing from the sd (*mortgagor*) to the sd (*mortgagee*) his exs, &c.

(b) As to the covenants for title by a mortgagor, see Pref. § 7.

*Of
Freeholds
in Fee.*

Then and in such case it shall and may be lful for the sd (*mortgagee*) his hrs and ass at any time thereafter to enter into and upon all and evy the sd preses hby reld or orwise assured or intended so to be and the same to have hold occupy possess and enjoy and to receive and take the rents issues and prfts thof to and for his and their own use and bent witht any let suit trouble denial interruption and disturbance whatsr of from or by the sd (*mortgagor*) his hrs or ass or any perr or psns whomsr having or lfully or equitably claiming or who shall or may have or lfully or equitably claim any estate right title int or inhance in to or out of the sd messes pieces or pcls of ld heredts and preses hby reld or orwise assured or intended so to be or any of them or any pt or pts thof *And* that free and clear and freely and clearly and absolutely acquitted exonerated and for ever discharged [(a) of the afd proviso or agrmt for redemption] or orwise by the sd (*mortgagor*) his hrs exs or ads well and sufficiently saved defended kept harmless and indemnified of from and agst all and all manner of former and or. gifts grants bargains sales jointures mortgages dower and right and title of or to dower uses trusts wills entails statutes recognizances judgments extents exons debts legacies annities sum and sums of money rent and arrears of rent and all or. estes titles troubles chas and incumbs whatsr *And moreover* that he the sd (*mortgagor*) and his hrs and all or. psns having or lfully or equitably claiming, &c. any este, &c. in to or out of, &c. shall and will from time to time and at all times after deflt shall happen to be made of or in paymt of the sd sd sum of £ — or the int thof or of any pt thof respby as afd at the request of the sd (*mortgagee*) his hrs or ass but at the costs and chas of the sd (*mortgagor*) his hrs exs ads or ass make do and exte or cause and procure to be made done and exted all such furr and or. lful and reasone acts deeds devices conveyances and assurances in the law for the furr better and more perfectly and absolutely conveying and assuring of the sd pieces, &c. with their apts unto and to the use of the sd (*mortgagee*) his hrs or ass as by the sd (*mortgagee*) his hrs or ass or his or their counsel in the law shall be reasonably advised devised or required *Provided always* and it is hby dectd and agrd by and betn the sd pties hereto that in the mean time and until deflt shall be made of or in paymt of the sd sum of £ — or

(a) As courts of equity will not allow any restriction on the mortgagor's right to redeem by the agreement of the pties, see Pref. § 2, this clause, if inserted, must be understood with the qualification, as far as the rules of equity will permit.

the int thereof or of some pt thereof resply contrary to the true intent and meaning of these preste it shall be lful for the sd (*mortgagor*) his hrs and ass peaceably and quietly to have hold use occupy possess and enjoy the sd messes, &c. hby reld or orwise assured or intended so to be and to rece and take the rents issues and prfts thereof and of evy pt thereof to and for his and their own use and benefit wistht the lful let trouble denial eviction ejection interruption or disturbance whater of from or by the sd (*mortgagor*) his hrs exs ads or ass or of from or by any or. psn or pans claiming or to claim by from through or under or in trust for him them or any of them *Provided always and it is hby furr decld and agrd* by and betn the pties hereto and the sd (*mortgagor*) in parlar for himself his hrs exs and ass doth covt, &c. that he the sd (*mortgagor*) his exs and ads shall and will, &c. from time to time and all times during the continuance of this present security at his and their sole expense insure and keep insured in some public office or offices for insurance to be approved of by the sd (*mortgagee*) his exs ads or ass all and singr the sd messes or dwell-houses edifices and buildings whater already erected or built or to be erected and built upon the sd pieces or pcls of ld heredita and preases hby reld, &c. or any pt thof agst loss or damage by fire in the sum of £ — at the least and shall and will assign the policy or policies of such insurance and the full bent thof unto the sd (*mortgagee*) his exs ads and ass *Upon Trust* for better securing to him and them the repaymt of the sd sum of £ — and int hby secured and subject thereto In Trust for the sd (*mortgagor*) his exs ads and ass And in case the sd (*mortgagor*) his exs or ads shall neglect to insure and keep insured the sd messe, &c. to the amount afd or to make such assignment of the policy or policies to be made or taken as afd that then and so often as the same shall happen it shall be lful for the sd (*mortgagee*) his exs ads or ass out of his and their own monies to insure and keep insured the sd houses, &c. in the sum of £ — or any less sum and for such time as he or they shall think proper and that the premium costs and chas of making and continuing such insurances by the sd (*mortgagee*) his exs ads or ass as afd shall become a charge upon the preases hby reld, &c. and shall carry int after the rate afd from the time of paymt thereof jointly with the or. principal sum of £ — hby secured (b) *In Witness, &c.*

*Of
Freeholds
in Fee.*

Covenant
to insure.

(b) If it be so agreed, say, ' *Provided also* and it is hby agrd and decid that when and so often as the interest of the sd sum of £ — being the principal money lent and advanced upon the secu-

Abatement
of interest
on regular
payments.

Mortgage by Demise for securing Re-transfer of Stock.

Obs. 1. As to a mortgage by demise; see Pref. § 5; as to the transfer of stock, see *Bond*, vol. i. p. 272.

Stamp.

2. Where a mortgage is made as a security for the re-transfer of stock, it is liable to the same duty as a mortgage for a sum of money equal to the value of the stock or fund secured, according to the average price thereof on the day of the date of the mortgage, or on either of the ten days preceding.

Recital of contract of loan of stock.

This Indre made, &c. Betn (mortgagor) of, &c. of the one pt and (mortgagee) of, &c. on the or. pt Whas

rity hby made shall happen to be made by equal half-yrly paymts upon the day of and day of in evy yr or within days then next but not oftener or orwise there shall be by the sd (mortgagee) his exs, &c. abated or discounted out of such int to be computed after the rate of £ — per cent. per ann. so much and such pt thof as will reduce the same for such respive paymts only from the rate add to the rate of £ — per cent. per ann. any thing herein contd to the contrary in anywise notwithstanding' If a power of leasing is to be given to the mortgagor, say, 'Provided also and it is hby decld, &c. that it shall be lful for the sd (mortgagor) his hrs and ass from time to time and at all times hrafr during the continuance of this mortgage (or 'so long as he shall continue in actual posson of the rents and prfts of the sd heredit and preases') whether before or after deft shall have been made in paymt of the mos hby secured by indres to be sealed and delivered by him or them in the presence of and attested by one witness or more to limit or appt by way of demise or lease all or any pt of the heredit and preases hby reld or orwise assured or intended so to be which have been usually letten to rent to any psn or psns for any term or number of yrs, &c.' (See leasing power, *Settlement*.)

If it be agreed, that the mortgagor may fell timber, say, 'Provided also and, &c. that he the sd (mortgagor) his hrs and ass shall and may during the continuance, &c. (until notice in writing under the hand and seal of the sd (mortgagee) his hrs and ass shall be given to him or them to the contrary) fell cut down and carry away all such timber and underwood of full and proper growth which for the time being shall be on the same lds and preases at seasonable and ordinary times'

If the contrary is agreed upon, then say, 'Provided also and it is, &c. and the sd (mortgagor) in parlar doth hby covt, &c. that he the sd (mortgagor) his exs ads or ass shall not nor will at any time or times so long as the sd principal sum of £ — so lent as afd shall remain on the secty of the sd heredit and preases cut down fell sell or dispose of any wood timber or or. trees growing and standing on the same heredit and preases or any pts thof (other than such wood timber or or. trees only as shall or may from time to time be employed or made use of for in or about the necessary repairs of the sd capital messe, &c.) witht the consent and approbation of the sd (mortgagee) his hrs and ass first had and obtained And also that he the sd (mortgagor) his hrs and ass shall and will from time to time and at all times, &c. preserve and keep the sd timber and or. trees growing and standing upon the sd heredit and preases or any pt thereof free from all damage or injury whater' (See Pref. § 8.)
In Witness, &c.

the sd (*mortgagee*) hath on the application of the sd (*mortgagor*) agrd to advance and lend to the sd (*mortgagor*) the sum of £ — 3 per cent. Bk Stock Annties standing in the name of the sd (*mortgagee*) in the books of the Gov. and Comp. of the Bk of Engld And the sd (*mortgagee*) hath this day at the request of the sd (*mortgagor*) sold and transferred the sum of £ — 3 per cent. &c. which sd sum of £ — the sd (*mortgagee*) hath previously to the exon of these prests pd unto the sd (*mortgagor*) which he doth hby acknge *And whas* upon the treaty for the sd loan it was agrd that the sd (*mortgagor*) should within the space of yrs re-transfer or cause to be re-transferred the sd sum of £ — unto and to the acct of the sd (*mortgagee*) his exs ads or ass and in the mean time should pay unto the sd (*mortgagee*) his exs ads or ass such a yrly sum as would be equivalent to the divds and annual produce which he or they would have recd if the sd sum of £ — had continued standg in his name And that the re-transfer of the sd sum of £ — and paymt of the divds in the mean time should be secured in manner hnaft mentd *Now this Indre Witnesseth* That in conson of the sd sum of £ — of, &c. so pd to the sd (*mortgagor*) at, &c. by the sd (*mortgagee*) the rect, &c. He the sd (*mortgagor*) *Hath* granted bargained sold and demised and by, &c. *Doth* grant, &c. unto the sd (*mortgagee*) his exs ads and ass *All that* messe, &c. togr with all and singr houses, &c. and the revn and revns, &c. remr and remrs rents issues and (a) prfts, &c. *To Have*, &c. the sd messe, &c. and all and singr or. the preses hly demised or intended so to be and evy pt thof with their apts unto the sd (*mortgagee*) his exs, &c. from the day next before the day of the date hereof for and during the full end and term of 99 years from thence next ensuing to be complete and ended *Yielding and Paying* therefore one peppercorn if demanded *Provided always* and it is hereby agrd, &c. that in case the sd (*mortgagor*) his exs ads or ass or some or. one of them shall and do at his and their own proper costs and chas within, &c. well and truly transfer or cause, &c. unto or to the acct of the sd (*mortgagee*) his exs, &c. in the bks, &c. the sum of £ — 3 per cent. &c. *And also* shall and do in the mean time until such transfer pay and make good unto the sd (*mortgagee*) his, &c. such sum and sums of money as, &c. will be equivalent to the divds which he or they could have, &c. recd if the sd sum of £ — had continued standing in his name such sums

*Of
Freeholds
by Demise*

*Agreement
to retrans-
fer stock,
&c.*

Testatum.

Habendum.

*Term.
Proviso for
cesser of
term.*

(a) Omit the clause, ' All the este,' &c.

Of
Freeholds
by Demise.

Covenant
to trans-
fer stock.

to be pd on the half-yrly days of paymt of the sd divds of the sd £ — 3 per cent. &c. at the Bk of Engld and to be pd free from taxes or any deduction whater Then and in such case the term of 99 yrs hby granted and demised as afd shall cease determine and be absolutely void And the sd (*mortgagor*) doth hby for himself his hrs, &c. covt, &c. in manner, &c. That he the sd (*mortgagor*) his hrs, &c. shall and will well, &c. transfer, &c. and also in the mean time shall, &c. pay such annual sums of money as will be equivalent, &c. on the days and in manner hnbefe appted for paymt of the same And also, &c. that he the sd (*mortgagor*) now hath in himself good right, &c. to demise and grant, &c. for and during the sd term of 99 yrs And likewise that from and immly after breach of the provo or condon above-written it shall and may be lful for the sd (*mortgagee*) his exs, &c. from time to time and at all times hrafrt peaceably and quietly to enter have hold, &c. all and singr the sd messe, &c. and preses hby demised and granted with the apts and to rece and take the rents issues and prfts thof for and during all the rest residue and remr of the sd term of 99 yrs which shall be then to come and unexpired witht the lful let suit, &c. of or by the sd (*mortgagor*) his hrs exs ads or any or. psn or psns whomas lfully claiming or to claim by from under or in trust for him or them And that free and clear and freely and clearly acquitted, &c. kept harmless and indemnified of from and agst all former and or. gifts grants leases, &c. and incumbs whater had made done committed or suffered or to be had made done committed or suffered by the sd (*mortgagor*) his hrs or ass or by any or. psn or psns whomas lfully claiming or to claim by from under or in trust for him or them And furr that he the sd (*mortgagor*) and his hrs and all and evy pan, &c. having or claiming, &c. any este, &c. of in to or out of the sd messe, &c. hby demised, &c. shall and will from time to time and at all times during the continuance of the sd term of 99 yrs at the request of the sd (*mortgagee*) his exs ads or ass but at the costs and chas of the sd (*mortgagor*) his hrs exs or ads make do acknge suffer and exte or cause to be made all and evy such furr and or. lful and reasonable acts deeds matters and things conveyances and assurances whater for the furr better more perfectly and absolutely granting and demising of the sd messe unto the sd (*mortgagee*) his exs, &c. for and during all the rest residue and remr of the sd term of 99 yrs which shall be then to come and unexpired freed and discharged of and from the provo or condon hnbefe contd for re-

demption of the sd preses and all equity thereupon as by the sd (*mortgagee*) his exs ads or ass shall be reasonably advised devised or required (a) as also after breach of the afd proviso or condon for granting conveying and assuring the fee simple and inhance of the same messe, &c. unto the sd (*mortgagee*) his hrs or ass or such psn or psns as he or they shall direct or appt or as by his or their counsel in the law shall be reasonably advised devised or required *And moreover* it is hby decl'd and agr'd by and betn the pties hereto that in the mean time and until def't shall happen to be made of or in payment of the sd sum of £ — contrary to the form and effect of the afd provo and covt for paymt of the same it shall and may be lful to and for the sd (*mortgagor*) his hrs and ass peaceably and quietly to have hold and enjoy the sd messe, &c. and preses and evy pt thof hby granted or demised or intended so to be with their ap'ts and to rece and take the rents issues and prfts thereof to and for his and their own use and bent witht the lful let suit trouble hinderance interruption and denial of or by the sd (*mortgagee*) his exs ads or ass or any or. psn or psns whomsr lfully claiming, &c. *Provided always* and it is hby furr decl'd, &c. (here add clause for insuring, see former precedent.)

*Of
Freeholds
with
Power of
Sale.*

*Mortgage by Appointment and Release, with Power of
Sole and Assignment of a Term to attend the
Inheritance.*

Obs. As to a mortgage with a power of sale, see Pref. § 10 ; and as to the stamp, see § 11.

This Indre made, &c. Betn (appointor and mortgagor) of, &c. of the first pt (trustees) of, &c. named by and in behalf of the sd (A) of the second pt (mortgagee) of, &c. of the third pt (trustee of term) of, &c. of the fourth pt and (assignee) of, &c. of the fifth pt Whas (a) the manors messes or tents lds and heredit's hnaft'r described and intended to be hby appted and reld or orwise assured do now stand limited To the use of such psn or psns for such este or estes int or ints to and for such intents and purps and under and subject to such powers provisoes declons and agrmts and in such manner and form

Recitals.

(a) See Pref. § 5.

(b) Or, 'Whas by indres of lease and rele bearing date resply the days of the rele being made betn, &c. (vndor) of, &c. of the first pt the sd (*mortgagor*) of, &c. of the second pt and the sd (*trustees*) of the third pt all and singr the manors messes, &c. hnaft'r described, &c. were conveyed and assured and now stand,' &c. as above.

Of
Freeholds
by Demise.

Covenant
to trans-
fer stock.

to be pd on the half-yrly days of paymt of the sd divds of the sd £ — 3 per cent. &c. at the Bk of Engld and to be pd free from taxes or any deduction whatsr Then and in such case the term of 99 yrs hby granted and demised as afd shall cease determine and be absolutely void And the sd (*mortgagor*) doth hby for himself his hrs, &c. covt, &c. in manner, &c. That he the sd (*mortgagor*) his hrs, &c. shall and will well, &c. transfer, &c. and also in the mean time shall, &c. pay such annual sums of money as will be equivalent, &c. on the days and in manner hnbefe appted for paymt of the same And also, &c. that he the sd (*mortgagor*) now hath in himself good right, &c. to demise and grant, &c. for and during the sd term of 99 yrs And likewise that from and immly after breach of the provo or condon above-written it shall and may be lful for the sd (*mortgagee*) his exs, &c. from time to time and at all times hrafts peaceably and quietly to enter have hold, &c. all and singr the sd messe, &c. and preses hby demised and granted with the apts and to rece and take the rents issues and prfts thof for and during all the rest residue and remr of the sd term of 99 yrs which shall be then to come and unexpired witht the lful let suit, &c. of or by the sd (*mortgagor*) his hrs exs ads or any or. psn or psns whomsr lfully claiming or to claim by from under or in trust for him or them And that free and clear and freely and clearly acquitted, &c. kept harmless and indemnified of from and agst all former and or. gifts grants leases, &c. and incumbe whatsr had made done committed or suffered or to be had made done committed or suffered by the sd (*mortgagor*) his hrs or ass or by any or. psn or psns whomsr lfully claiming or to claim by from under or in trust for him or them And furr that he the sd (*mortgagor*) and his hrs and all and evy pan, &c. having or claiming, &c. any este, &c. of in to or out of the sd messe, &c. hby demised, &c. shall and will from time to time and at all times during the continuance of the sd term of 99 yrs at the request of the sd (*mortgagee*) his exs ads or ass but at the costs and chas of the sd (*mortgagor*) his hrs exs or ads make do acknge suffer and exte or cause to be made all and evy such furr and or. lful and reasonable acts deeds matters and things conveyances and assurances whatsr for the furr better more perfectly and absolutely granting and demising of the sd messe unto the sd (*mortgagee*) his exs, &c. for and during all the rest residue and remr of the sd term of 99 yrs which shall be then to come and unexpired freed and discharged of and from the provo or condon hnbefe contd for re-

demption of the sd preses and all equity thereupon as by the sd (*mortgagee*) his exs ads or ass shall be reasonably advised devised or required (a) as also after breach of the afd proviso or condon for granting conveying and assuring the fee simple and inhance of the same messe, &c. unto the sd (*mortgagee*) his hrs or ass or such psn or psns as he or they shall direct or appt or as by his or their counsel in the law shall be reasonably advised devised or required *And moreover* it is hby decl'd and agr'd by and betn the pties hereto that in the mean time and until def't shall happen to be made of or in payment of the sd sum of £ — contrary to the form and effect of the afd provo and covt for paymt of the same it shall and may be lful to and for the sd (*mortgagor*) his hrs and ass peaceably and quietly to have hold and enjoy the sd messe, &c. and preses and evy pt thof hby granted or demised or intended so to be with their apts and to rece and take the rents issues and prfts thereof to and for his and their own use and bent witht the lful let suit trouble hinderance interruption and denial of or by the sd (*mortgagee*) his exs ads or ass or any or. psn or psns whomsr lfully claiming, &c. *Provided always* and it is hby furr decl'd, &c. (here add clause for insuring, see former precedent.)

*Of
Freeholds
with
Power of
Sale.*

*Mortgage by Appointment and Release, with Power of
Sole and Assignment of a Term to attend the
Inheritance.*

Obs. As to a mortgage with a power of sale, see Pref. § 10; and as to the stamp, see § 11.

This Indre made, &c. Betn (appointor and mortgagor) of, &c. of the first pt (trustees) of, &c. named by and in behalf of the sd (A) of the second pt (mortgagee) of, &c. of the third pt (trustee of term) of, &c. of the fourth pt and (assignee) of, &c. of the fifth pt Whas (a) the manors messes or tents lds and heredit's hnaft'r described and intended to be hby appted and reld or orwise assured do now stand limited To the use of such psn or psns for such este or estes int or ints to and for such intents and purps and under and subject to such powers provisoes declons and agrmts and in such manner and form

Recitals.

(a) See Pref. § 5.

(b) Or, 'Whas by indres of lease and rele bearing date resply the days of the rele being made betn, &c. (vndor) of, &c. of the first pt thesd (*mortgagor*) of, &c. of the second pt and the sd (*trustees*) of the third pt all and singr the manors messes, &c. hnaft'r described, &c. were conveyed and assured and now stand,' &c. as above.

Of as the sd (*A*) by any deed or deeds instrmt or instrmts
Freeholds in writing to be sealed and delivered by him in the
with presence of and attested by two credible witnesses shall
Power of direct limit or appt and in deft of and until such diron
Sale. limitation and apptmt and as to such pt or pts of the sd
 manors, &c. of which no complete diron limitation or
 apptmt shall be made or to which any such diron limi-
 tation or apptmt shall not extend *To the Use* of the sd
 (*A*) and his ass during his natural life and after the
 determination of that este by any means whater during
 his lifetime *To the Use of the sd (trustees)* therein-
 named and their hrs during the life of the sd (*A*) And
 from and after the dece of the sd (*A*) *To the Use*
 of the sd (*A*) his hrs and ass for ever *And whas* the
 sd (*A*) hath contracted with the sd (*mortgagee*) for the
 loan of £ — to be secured as hnaft mntd *Now this*
Indre witnesseth That in conson of the sum of £ —
 by the sd (*M*) at, &c. to the sd (*A*) in hand, &c. pd the
 rect, &c. He the sd (*A*) by virtue and in pursuance and
 exercise of the powers to him given by the sd in pt
 recited indre and of all or. powers and authties in him
 vested or in anywise enabling him in this behalf (see
Appointments) *Hath* directed limited and appted and
 by this present deed or instrmt in writing sealed and
 delivered by him in the presence of the two psns whose
 names are intended to be hereon indorsed attesting his
 sealing and delivery thof *Doth* direct limit and appt
 that the sd manors messes or tents lds and hereds
 with their apts shall henceforth remain continue and
 be and that the hereinbefc recited indre of rele shall
 operate and enure *To the use of the sd (M)* his hrs
 and ass for ever *Subject* nevss to the provo or agrmt
 for redemption hnaft mntd *And this Indre furr Wit-*
nesseth That in furr pursuance of the sd in pt recited
 agrmt and in conson of the preeses and also in conson
 of the sum of £s. by the sd (*mortgagee*) to each of them
 the sd (*trustees*) in, &c. pd the rect, &c. They the sd
 (*trustees*) at the instance and by the direction of the sd
 (*mortgagor*) testified, &c. *Have* and each of them *Hath*
 bargained sold and reld and by these presents *Do* and
 each of them *Doth* bargain, &c. and the sd (*mortgagor*)
Hath granted bargained sold reld and confirmed and
 by, &c. *Doth* grant, &c. unto the sd (*mortgagee*) his
 hrs and ass *All those* manors messes, &c. (*parcels*)
General togr with all houses outhouses cottages buildings edi-
words. fices barns stables coach-houses dovecotes ancient and
 other lights yards orchards gardens backsides tofts
 crofts lds meadows pastures heaths moors and marshes
 water watergrds folds foldcourses and liberty of foldage

feedings parks warrens common of pasture common of
 turbary and or. commonable rights mines minerals
 quarries mills mulctures fairs customs tolls duties
 furzes trees woods underwood and the ground and soil
 thereof fences hedges ditches freeboards ways water-
 courses fishings fisheries fowlings courts-leet courts-
 baron and other courts perquisites and prfts of courts
 view of frankpledge and all that to view of frankpledge
 doth belong reliefs heriots fines sums of money amer-
 cements goods and chattels of felons and of felons of
 themselves and of fugitives and outlawed pns deodands
 waifs estrays chief reuts quitrents boons services royal-
 ties jurisdictions franchises liberties privileges easements
 prfts commodities emoluments and apts whater to the
 sd manors messes or tents lds and hereds hby reld or
 orwise assured, &c. or any of them resply belonging or
 in any wise appertaining or with the same or any of
 them resply now demised leased hold used occupied
 or enjoyed or deemed taken or known as pt pcl or
 member of them or any of them or apt thereunto
 And the revn, &c. And all the este, &c. And all deeds, &c.
 All which sd manors, &c. are now in the actual posson
 of the sd (*mortgagee*) by virtue, &c. (see *Gen. Precedent*.)
To Have and to Hold the sd manors, &c. And all and
 singr or. the presses hby apted and reld or orwise as-
 sured or intended so to be with their apts *Subject* nevns
 to the provo or agrmt for redemption hnafr contd
 And each of them the sd (*trustees*) for himself sevlly and
 resply and for his sevl and respive hrs exs and ads and
 for their sevl and respive acts deeds and defts separate
 and apart from the or. or ors. of them doth hby covt, &c.
 with, &c. the sd (*mortgagee*) his hrs and ass, &c. that
 they the sd (*trustees*) resply have not (done any act to
 incumber, see vol. i. p. 232) *Provided always* and it is
 hby decld, &c. that if the sd (*mortgagor*) his hrs exs or
 ads or some or one of them do and shall, &c. pay, &c.
 unto the sd (*mortgagee*) his exs, &c. Then and in that
 case (*proviso* for redemption, see *Gen. Precedent*) *Pro-
 vided also* and it is hby farr agreed and decld, &c. and
 the true intent and meaning of them and these prests
 are that in case deft shall happen to be made in pay-
 ment of the sd sum of £ — and int at the time and
 place hnbeft apted for payment thereof contrary to
 the provo for redemption hnbeft contd And he the
 sd (*mortgagee*) his hrs and ass shall have given to
 the sd (*mortgagor*) his exs ads and ass or left for him or
 them at his or their usual place of abode notice in
 writing demanding paymt of the sd sum of £ — and
 int or so much thereof as shall be then due and

*Of
 Freeholds
 with
 Power of
 Sale.*

No act to
 incumber.

*Proviso for
 redemp-
 tion.*

*Of
Freeholds
with
Power of
Sale.*

owing and six calr mths shall have elapsed from the delivry or leaving of such notice (of which deft in paymt the production of these prests by the sd (*mortgagee*) his hrs exs ads or ass or his or their atty or agent shall be deemed full and sufficient evidence) *Then* it shall and may be lful for him the sd (*mortgagee*) his hrs and ass and he or they are hby authorized and empowered witht any furr consent or concurrence of the sd (*mortgagor*) his hrs or ass when and as he or they shall think fit and proper peaceably and quietly to enter into and upon all and evy the heredit and preses hnbefe limited and appted granted and released or orwise assured or intended so to be and rece and retain the rents issues and prfts thof *And also* either before or after such entry to make sale and absolutely dispose of the same heredit and preses or any pt thof either altogr or in sevl lots or pcis and either by public auction or private contract or ptly by one or ptly by the other with liberty if he or they shall think fit to buy in the sd heredit at any auction witht being answerable for any loss or diminution in price by such resale *And* with full power and lful and absolute authty for him the sd (*mortgagee*) his hrs or ass to convey and assure the heredit and preses so sold as afd unto the psn or psns who shall agree to become the purchaser or purchasers as he she or they shall direct or appt absolutely freed and discharged of and from the provo or agrmt for redemption hnbefe contd and all or. proveoes agrmts and declons save only the declon or agrmt hnafr contd respecting the rects of the sd (*mortgagees*) and the non-liability of the sd purchasers *And* it is hby furr agrd, &c. that until such sale or sales shall be made and accomplished as afd the sd (*mortgagee*) his hrs and ass shall and will stand and be possessed of and interested in the rents issues and profits of the sd heredit and preses hby reld or, &c. orwise assured or intended so to be and after such sale or sales shall stand and be possessed of and interested in the mos to arise and be produced by such sale or sales *Upon Trust* in the first place to pay and satisfy the costs and chas of preparing for and making such sale or sales and all or. costs chas dams and exps which he the sd (*mortgagee*) his hrs exs ads or ass shall bear pay sustain and be put unto for taxes rents insurances and repairs of the sd heredit and preses and all or. costs and chas which may be incurred in and about the exon of any of the trusts in him or them hby reposed *And* in the next place to pay and satisfy himself the principal sum of £ — and int or so much thof as shall remain due and unsatisfied up to and

*Declaration
of trusts.*

inclusive of the day whereon the sd principal sum shall be pd and satisfied And after full paymt and satisfaction of all such sums of money and int as afd *Upon this furr Trust* that he the sd (*mortgagee*) his exs ads or ass do and shall pay the surplus if any to the sd (*mortgagor*) his exs ads or ass or to such psn or psns as he or they shall direct and appt And also do and shall at the request costs chas and exps of the sd (*mortgagor*) his hrs and ass convey and assure unto the sd (*mortgagee*) his apptees or ass or such psn or psns as he or they shall direct or appt all such pts of the sd hereds and preses as shall remain unsold and undisposed of for the purps afd freed and absolutely discharged of or from all cstes liens chas and incumbs whatsr to be had made done permitted or suffered by the sd (*mortgagee*) his hrs or ass in the mean time *And it is hby furr decl'd and agrd* by and betn the pties hereto and parlarly the sd (*mortgagor*) doth hby direct and appt that all acts deeds assnmts surrenders mtges leases and assurances to be made done entered into and exted by the sd (*mortgagee*) his hrs and ass in or about the exon of all or any of the powers or purps of these prests shall be valid and effectual to all intents and purps witht any furr consent privity or concurrence of from or by the sd (*mortgagor*) his hrs exs ads or ass or any psn or psns whomsr and that the rectx of the sd (*mortgagee*) his hrs exs ads or ass shall be good and valid dischas to all psns for all rents prfts mtge purchase or or. monies which shall be pd to him or them by virtue or for the purpe of these prests and that no psn paying the same shall aftwds be obliged to see to the application thereof or be answerable for the loss misapplication or non-application thereof or be bd to enquire into the propriety of or reason or necessity for any surrender assnmt mtge or or. disposition act or thing to be made or done by virtue of the sd powers or for the purps of these prests nor whether any such debt in any such paymts as afd shall have been made *Provided always* and it is hby expssly decl'd, &c. that no sale or mtge shall be made under any of the provisions hnbeft contd unless and until six calr mths' previous notice in writing of the same as afd be given to the sd (*mortgagor*) his hrs or ass or left for him or them but nevss no purchaser or mortgagee by virtue of the powers afd shall be bd to enquire or ascertain whether such notice shall have been given nor be in anywise affected by express notice or knowledge that the same may not have been given] And also that the sd (*mortgagee*) his hrs, &c. at any time before such sale or sales shall take place

*Of
Freeholds
with
Power of
Sale.*

*Acts of
mortgagee
to be valid.*

*Six months'
notice to be
given to
mortgagor.*

Of
Freeholds
with
Power of
Sale.

Covenant
to pay
mortgage
money, &c.

Covenants
for title.

upon paymt or tender to the sd (*mortgagee*) his, &c. of all principal and int money due on the security of the sd heredit and preses togr with all costs and chas which shall be incurred in the exon of the trusts and powers in him or them hby reposed or orwise by reason of such deft accept of the same and at the costs and chas of the sd (*mortgagor*) his hrs or ass convey and assure all and singr the sd heredit hby limited appted and reld or orwise assured or intended so to be and evy pt and pcl of the same which shall then remain unsold with their appts unto the sd (*mortgagor*) his hrs apptees or ass or as he or they shall direct free from all, &c. incumbs to be made, &c. And the sd (*mortgagor*) for himself his hrs exs and ads doth hby covt, &c. with the sd (*mortgagee*) his exs ads and ass in manner following that is to say That he the sd (*mortgagor*) shall, &c. (pay mortgage money, &c. see *Gen. Precedent*) And also that he the sd (*mortgagor*) his hrs exs ads and ass shall and will during the continuance of the sd principal sum of £ — and int upon this security until some sale or disposition of the sd heredit by the sd (*mortgagee*) his hrs or ass and he or they shall be in posson of the same and in rect of the rents and prfts thof under or by virtue of these prests pay or cause to be pd all and all manner of rents taxes and assessments which shall or may be paye for or in respect of the sd heredit or any pt or pts thereof and shall and will exonerate and save harmless the sd (*mortgagee*) his hrs or ass from and agst the same and of and from all actions suits penalties forfeitures costs chas dams and lful demands whatsr And furr that the sd hnbeffe recited power of apptmt is at the time of the sealing and deliv of these prests in full force and effect and a good valid and subsisting power in the law and not exercised revoked extinguished suspended and defeated or orwise become void or voidable And that he the sd (*mortgagor*) hath good right full power and lful authty to limit appt direct and also to grant rele and confirm the sd manors, &c. and all and singr the heredit and preses and evy of them with all and evy of their rights members and appts unto and to the use of the sd (*mortgagee*) his hrs and ass in manner afd according to the true intent and meaning of these presents And furr that the sd heredit and preses until the same shall be sold or orwise disposed of in pursuance of the powers hubefe contd for that purpe shall remain continue and be vested in the sd (*mortgagee*) his hrs and ass upon the trusts and for the ends and with under and subject to the powers expssd and decld of and concerning the same

and the rents issues and prfts thof shall be applied accordingly And that from and immly after any such sale or disposition shall be made it shall be lful for the purchaser or purchasers thereof his her or their hrs peaceably and quietly to enter into and upon and hold possess and enjoy all and singr the same heredts and rece and retain the rents issues and prfts witht any manner of interruption disturbance claim or demand whatsr from the sd (*mortgagor*) or any or. psn or psns whomsr And that free, &c. (see *Releases, Gen. Precedent*) And moreover that he the sd (*mortgagor*) his hrs exs ads or ass and all and evy or. psn and psns whomsr lfully or equitably claiming or to claim any este right title trust charge or int at law or in equity or orwise howsr of in to out of or upon the sd messes or tents lds and heredts hby reld or orwise assured or intended so to be or any pt thereof shall and will from time to time and at all times hrafr upon the rease request of the sd (*mortgagee*) his hrs exs ads or ass or any purchaser or purchasers but until such sale or sales shall be made at the costs and chas of the sd (*mortgagor*) his hrs, &c. and after such sale or sales then at the costs and chas of the purchaser or purchasers of the sd heredts do make exte and perfect or cause to be made, &c. all, &c. acts, &c. for the furr better more perfectly and absolutely granting releasing confirming or assuring the same heredts and preses and evy pt and pcl thof with their and evy of their rights members and appts unto and to the use of the sd (*mortgagee*) his, &c. or unto and to the use of the sd purchaser, &c. or the psn or psns to whom the same shall be sold in such manner and form as he she or they or his her or their counsel in the law shall reasonably advise devise or require *Provided always* and, &c. it is hby decl'd, &c. that until deft, &c. (*mortgagor* to enjoy, &c. see *Gen. Prec.*) *Provided also* that notwithstanding the power of sale and or. the powers and provisions of these prests the sd (*mortgagee*) his hrs or ass shall have and be entitled to his and their right of foreclosure of the equity of redemption of the sd (*mortgagor*) his hrs and ass in the sd heredts and preses in as large ample and beneficial a manner as he or they might have exercised and enjoyed the same in case the power of sale and the or. powers provisoes and trusts incident thereto had not been limited and reserved to the sd (*mortgagee*) his, &c. in manner as hnbe mentd *Provided also* and it is hby furr decl'd, &c. that the sd (*mortgagee*) his hrs or ass shall not be answerable or accountable for any more mos than he or they shall actually rece by virtue

*Of
Freeholds
with
Power of
Sale.*

*Proviso to
enjoy until
default.
Right of
foreclosure.*

*Of Free-
holds with
Power of
Sale.*

*Recital of
the creation
of a mort-
gage term.*

*Will of
mortgagor.*

*Assignment
of mort-
gage.*

of these prests nor for any misfortune loss or damage which may happen to the sd este effects and preses in the exon of the trusts afd save and except the same shall happen by or through his or their own wilful neglect or deft *Provided also* and it is hby decld, &c. and the sd (*mortgagee*) doth hby consent and agree that, &c. (*mortgagor*) shall quietly enjoy until deft) *Provided furr* (here add covenant to insure and other covenants, &c. see *Gen. Prec.*) *And whas* by indre bearing date, &c. made betn B I therein described and T H of, &c. his trustee of the one pt and S P also therein described of the or. pt For the consons therein mentd the sd T H by the direction of the sd B I did grant and demise unto the sd S P *All those*, &c. thereinbefe described *To Hold* the same unto the sd S P her exs, &c. from the day of the date thereof for the term of 1000 yrs subject to a proviso therein-contd for making void the same term upon paymt by the sd B I his hrs exs ads or ass unto the sd S P her exs, &c. of the sum of £ — and int as therein-mentd which money was not pd accordingly *And whas* the sd B I made and duly exted his last will and testament in writing bearing date the, &c. and thereby gave and devised unto his wife A I and her ass all those messes, &c. during the term of her natural life subject nevss to the mortgage money secured upon the same preses and from and immly after the dece of his sd wife unto his son B I the younger his hrs and ass for evr and the sd testator afterwards departed this life witht revoking or varying his sd will *And whas* by an indre bearing date, &c. and made betn the sd S P of the first pt the sd A I and B I the younger of the second pt and J H therein-described of the third pt After reciting to the effect hnbefe recited And that the sum of £ — therein remained due and owing upon the sd recited secty but that all int had been pd And that the sd S P having called upon the sd A I and B I the younger for paymt thof they the sd A I and B I the younger had applied to the sd J H to lend and advance to them the sum of £ — for that purpe which he the sd J H had agrd to do *It is by the present reciting Indre Witnessed* That in conson of the sum of £ — to the sd S P pd by the sd J H and of 5s. to the sd A I and B I the younger by the sd J H pd she the sd S P by the direction of the same A I and B I the younger did bargain sell and assign and the sd A I and B I the younger did grant bargain sell assign ratify and confirm unto the sd J H his exs ads and ass the sd messes, &c. comprised in the sd recited indre of mortgage with their and evy of their appts *To Hold* the same unto the sd

J H his exs ads and ass thenceforth for the then residue of the sd term of 1000 yrs therein subject to a proviso therein contd for redemption of the same preses upon payment by the sd A I and B I or either of them their or either of their hrs exs or ads unto the sd J H of the sum of £ — and int as therein-mentd which money was not pd accordingly *And whas* the sd B I the younger lately departed this life unmarried intestate and witht issue leaving W I his only brother and hr at law him surviving *And whas* in and by the first-mentd indre of rele of the day of in conson of the sum of £ — to the sd J H by the sd (A) by the direction of the sd A I and W I in discharge of all money then due to the sd J H upon the sd recited secty and for the or. consons therein-mentd all and singr the sd manor messes, &c. hnbefe described and hby intended to be limited granted and reld with the appts were assd unto the sd (*trustee of term*) his exs ads and ass thenceforth for the then residue of the sd term of 1000 yrs therein *In Trust* nevss for the sd (A) his hrs and ass to be disposed of as he or they shd direct or appt and in the mean time to attend the revn freehd and inhance of the same preses to protect the same from all mesne charges and incumbs (if such there were) *Now this Indre furr Witnesseth* That for the purpe of securing the paymt of the sd sum of £ — and int to the sd (M) his exs and in conson of 5s. by the sd (*trustee*) to the sd (*assignee*) at, &c. pd the rect, &c. He the sd (T) at the instance and request and by the direction and apptmt of the sd (A) and on the nomination of the sd (M) testified by their respive exon of these prests *Hath* bargained sold and assigned and by, &c. *Doth* bargain, &c. unto the sd (*assignee*) his exs, &c. all and singr the manors, &c. hnbefe mentd to be hby limited and appted granted and reld and every pt and pcl thof And all the este, &c. *To Have*, &c. the sd manors, &c. and all and singr or. the preses hby assd or orwise assured or intended so to be unto the sd (*assignee*) his exs, &c. henceforth for and during all the rest residue and remr of the sd term of 1000 yrs therein now to come and unexpired *In Trust* nevss in the first place for the sd (M) his exs ads and ass for the better securing to him and them the payment of the sd sum of £ — and int at the time and in the manner hnbefe appted for the payment of the same And from and after the payment thereof and subject in the mean time thereto *in trust* to attend the revn freehd and inhance of the same preses in order to protect the same from all mesne chas and incumbs (if any such there be) and the sd (T) doth hby for himself

Of Freeholds with Power of Sale.

*Of Free-
holds with
Power of
Sale.*

his hrs exs ads and ass covt declare and agree with and to the sd (*assignee*) his exs ads and ass that he the sd (*T*) hath not at any time or times heretofore made done committed or willingly or knowingly permitted or suffered any act deed matter or thing whatsr whyby or by reason or means whereof the sd manors, messes, &c. comprised in the sd term of 1000 yrs and hby assd or orwise assured or intended so to be or any pt of the same are is can shall or may be impeached charged incumbered or in any wise prejudicially affected in title term este or orwise howsr *In Witness, &c.*

Mortgage in Fee to Bankers, with Trusts for Sale for securing Money already advanced, or which may in future be advanced.

Obs. As to a mortgage with trusts for sale, see Pref. § 10 ; as to the stamp, see § 11.

*Recital of
discount of
bills, &c.
by mort-
gagee.
Contract
for mort-
gage.*

This Indre made, &c. Betn (mortgagor) of, &c. of the one pt and (mortgagees) of the or. pt Whas the sd (mortgagees) have at the request of the sd (mortgagor) and for his use and bent on the day of the date of these prests discounted certain bills of exchange to the amount of £ — and may hnafr make further advances unto or by the direction of the sd (mortgagor) And whas for the more effectually securing paymt as well of the sd sum of £ — as afd as of all such furr sums not exceeding in the whole the sum of £ — as the sd (mortgagor) shall owe or become liable to pay unto them with int for the same as hnafr is mentd the sd (mortgagor) hath proposed to convey and assure the messes or tents lands and hereds hnafr described in manner as hnafr is mentd Now this Indre Witnesseth That in pursuance of the sd agrt and for effectuating the purpose afd and in conson of the sd sum of £ — now owing to the sd (mortgagees) upon the balance of the sd acct between them and the sd (mortgagor) He the sd (mortgagor) Hath granted bargd sold aliened released and confirmed And by, &c. Doth grant, &c. unto the sd (mortgagees) or the survivor of them and the hrs and ass of such survor or the partner or partners for the time being All those messes or tents lds and hereds And all houses, &c. And the revn, &c. And all the este, &c. (all which sd messes or tents lds and hereds are now in the actual possession of the sd (mortgagees) by virtue of a bargain and sale to them thof made, &c. see Gen. Prec.) To Have and to Hold, &c. the sd messes, &c. and all and singr, &c. hby granted or released or, &c. with the appts

Testatum.

¶ abendum.

unto and to the use of the sd (*mortgagees*) or the survivor, &c. and the heirs and assigns of such survivor, &c. Nevess upon the trusts and to and for the intents and purposes hereafter expressed and decided of and concerning the same that is to say, &c. *In Trust* to permit the sd (*mortgagor*) his heirs and assigns to receive and take the rents issues and profits of the sd messes, &c. hereby granted, &c. and every part thereof to and for his and their own use and bent until debt shall be made in payment of the sd sum of £ — secured by the sd bills or until the sd (*mortgagor*) shall become indebted in the further sum of £ — on balance of accounts or otherwise for monies advanced by them unto or by direction of the sd (*mortgagor*) And in case debt shall be made in payment of the sd sum of £ — or the sd (*mortgagor*) shall at any time become indebted to the sd (*mortgagees*) or the partners for the time being in the sum of £ — *Then upon Trust* that they the sd (*mortgagees*) or, &c. do and shall at any time or times hereafter without any further or other authority or direction of or from the sd (*mortgagor*) his heirs executors or assigns absolutely sell and dispose of the sd messes (see *last Precedent*) And it is hereby agreed and decided by and between the parties hereto that until such sale or sales shall be made or completed as aforesaid the sd (*mortgagees*) or the survivor, &c. or the partners or partner for the time being do and shall stand and be possessed of and interested in the rents issues and profits of the sd hereditaments and premises hereby relet or otherwise assured or intended so to be and after such sale or sales shall stand possessed of and interested in the monies to arise from and be produced by such sale or sales and all or monies which shall come to their hands by virtue of these presents upon the trusts following, &c. *Upon Trust* in the first place to pay and satisfy the costs and charges, &c. (see *last Precedent*) In the next place to pay and satisfy the sd (*mortgagees*) or the partners, &c. for the time being all such sum and sums of money not exceeding in the whole the sum of £ — which shall be found due to them on balance of accounts between the sd (*mortgagees*) and the sd (*mortgagor*) together with interest after the rate of, &c. And after full payment and satisfaction thereof to pay the surplus if any unto the sd (*mortgagor*) his, &c. or as he shall appoint and direct *Provided always* and it is hereby decided, &c. that the rectors of the sd (*mortgagees*) or the survivor, &c. or the partners, &c. for the time being shall be effectual and valid releases and discharges to any purchasers of the sd hereditaments, &c. for the monies which shall be so paid and which in the sd rectors shall be expressed to be received notwithstanding any person or persons not being a party or parties to these presents nor to such rect or

Of Freeholds with Trusts for Sale.

Upon trust.
To permit mortgagor to enjoy until default.

And after default to sell.

Stand possessed of proceeds.

Upon trust, &c.

Rectors of mortgagees to be good, &c.

*Of Free-
holds with
Trusts for
Sale.*

No sale
until after
six months
notice.

Mortgagees
to give in
account.

rects as afd shall therein be a ptnr or ptnrs in the sd banking concern now carried on by the sd (*mortgagees*) or may be otherwise beneficially interested in such mos and notwithstanding the sd (*mortgagees*) or any of them shall be then dead And also that all sales contracts, &c. which shall be made done or exted by the sd (*mortgagees*) or, &c. for the purpose of effectuating and completing such sale or sales as afd or orwise in or about the exon of the trusts hnbefe decld shall be as good valid and effectual both at law and in equity though the sd (*mortgagor*) his hrs, &c. shall not join therein or assent thereto as they would have been in case the sd (*mortgagor*) his, &c. had joined therein and assented thereto *Provided also* and it is further decld, &c. that no sale or sales of the sd hereds or preses or any pt thof shall be made by the sd (*mortgagees*) or, &c. until after the expiration of six calr mths' notice of their intention to sell shall have been given to the sd (*mortgagor*) his hrs exs ads or ass And furr that they the sd (*mortgagees*) or the partners for the time being, &c. shall and will at any time thereafter when thereunto requested by the sd (*mortgagor*) his hrs, &c. and within days from such notice make out a true just and particular acct of all the money due and owing to him or them for principal int and costs on this present security and deliver the same acct to the sd (*mortgagor*) &c. *Provided always* that if the sd (*mortgagor*) his exs ads or ass shall pay or tender, &c. to the sd (*mortgagees*) or, &c. or the partners for the time being the same principal sum and int with costs Then and in such case they the sd (*mortgagees*) or the partners, &c. (reconvey free from incumbrances, see *last Precedent*) And the sd (*mortgagor*) for himself, &c. doth covt, &c. with the sd (*mortgagees*) or their hrs, &c. in manner following that is to say That he the sd (*mortgagor*) his hrs exs ads or ass shall, &c. from time to time and at all times when thereunto requested well and truly pay unto the sd (*mortgagees*) &c. all and evy the sum and sums of money which shall be found due to them from him the sd (*mortgagor*) on balance of acct or orwise as afd with all such int as shall from time to time accrue due thereon after the rate afd to be computed from the respive times as afd And also (covts for title, &c. and covenant to insure, see *Gen. Prec.*) *In Witness, &c.*

Mortgage by Demise to Trustees, with Trusts for Sale, to indemnify Bankers for Monies which may be overdrawn by Mortgagor.

This Indre made, &c. Betn (mortgagor) of, &c. of

the first pt (*mortgagees*) of, &c. of the second pt and (*trustees*) of, &c. trustees named by and on behalf of the sd (*mortgagees*) of the third pt *Whas* the sd (*mortgagor*) finding that in the course of his business he shall have occasion for more money than he hath or shall or may have in the hands of the sd (*mortgagees*) as his bankers hath requested the sd (*mortgagees*) to permit him to overdraw his acct to an amount not exceeding in the whole the sum of £ — which they have agreed to do on their being fully indemnified of and from and agst all losses costs and chas in manner as hrafter is mentd *Now, &c. this Indre Witnesseth* That for the consons afl and also in conson of 10s. to the sd (*mortgagor*) by, &c. the sd (*T*) the rect, &c. He the sd (*mortgagor*) Hath granted bargained sold and demised and by, &c. *Doth* at the nomination and by and with the consent of the sd (*mortgagees*) testified, &c. grant, &c. unto the sd (*T*) their exs ads and ass *All that, &c.* with all houses, &c. And the revn, &c. *To Have, &c.* unto the sd (*T*) their exs, &c. for and during, &c. *Yielding and Paying, &c.* And it is hby deold and agrd, &c. that the afl grant and demise made or expsd to be made of the sd messe, &c. unto the sd (*T*) their exs ads or ass are so made upon the trusts and for the sevl ends, &c. hnafter mentd *Upon Trust* to permit and suffer the sd (*mortgagor*) his hrs and ass, &c. to rece and take the rents, &c. (see the two last *Precedents*) until the sd (*mortgagor*) shall become indebted unto the sd (*mortgagees*) as his bankers on balance, &c. in the sum of £ — *And upon furr Trust* that when and so often as he the sd (*mortgagor*) shall happen to become indebted, &c. it shall and may be lful for the sd (*T*) or the survor of them or the exs ads or ass of such survor to enter into and upon the sd messe hby demised or orwise, &c. or any pt thereof and to have hold, &c. and to rece and take the rents, &c. or by granting selling leasing demising or mortgaging the same or such pt or pts thereof as to the sd (*T*) or the survor, &c. shall seem meet for the whole or any pt of the sd term of yrs hby granted, &c. and to raise and levy or borrow and take up at int such sum and sums of money as shall from time to time be sufficient to pay and reimburse them the sd (*mortgagees*) their exs and ads resply as well all such principal mos as shall be found due and owing to them the sd (*mortgagees*) on balance of accts or orwise as also all such int as shall from time to time be due and owing on the sums which they may be in advance to him the sd (*mortgagor*) togr with all such costs chas dams and exps as the sd (*T*) or the sd (*mortgagees*) or either of them their or

Of Free-holds with Trusts for Sale.

Recital of agreement that mortgagor may overdraw.

Testatum.

Demise to trustee, with trusts for sale.

Habendum.

Declaration of trusts.

- Of Copyholds.* either of their exs, &c. shall pay bear sustain expend or be put unto in or about the exon and management of the sd trusts and trust este and thereupon to apply and dispose of the same mos accordingly and to pay the surplus if any unto the sd (mortgagor) his hrs or ass *Provided always* that if the sd (mortgagor) shall not at any time or times hrafr become indebted unto the sd (mortgagees) or any of them as his bankers in the sum of £ — on balance of accts or orwise as afd or being so indebted if he the sd (mortgagor) his exs or ads shall and do from time to time before such entry sale or mortgage as afd shall be made upon or of the sd messe, &c. hnbeft, &c. or upon or of any pt thof well and truly pay to and reimburse them the sd (mortgagees) resply the balance of such acct and all int that shall grow due thereon or if the sd (mortgagees) shall cease to be the bankers of the sd (mortgagor) and all accts betn the sd pties shall be thereupon finally settled and satisfied Then the sd term of yrs of and in the sd messe, &c. hby demised, &c. or of and in so much thof as shall not be sold mortgaged or disposed of for the purps afd shall cease and determine for the bent of the psn or psns who shall have or be entitled to the revn or remr And the sd (mortgagor) for himself, &c. doth hby covt, &c. (to pay all such sum or sums of money, &c. see *last Precedent*, also covts for Title, &c. see *Mortgage by Demise*) In Witness, &c.
- Cesser of term.*

Mortgage of Copyholds.

- How effected.* Obs. 1. In mortgaging copyholds, it is usual for the mortgagor, either to enter into a covenant to surrender, and afterwards to make an actual surrender on condition, or to make the surrender first, and at the same time to enter into a deed of covenants, or a bond with covenants. These ought to be entered on the rolls, 1 Watk. Cop. 146. If the copyholder is a tenant in tail, see *Fines and Recoveries*, Pref. § 2 and 3, &c.
- Proviso for redemption* 2. A clause is frequently inserted in the proviso for redemption, making the payment of the rents and fines a part of the condition; but without such a clause as this, a court of equity would not permit a mortgagor to redeem without reimbursing the mortgagee all such payments, but it would limit the rate of interest to 4 per cent. instead of 5l. as is usually stipulated.
- Stamp.* 3. In a mortgage of copyholds, or customary hereditaments by surrender or grant, the *ad valorem* duty, by the 55 G. III. c. 184, is to be impressed on the surrender or grant thereof, if made out of court; but on the memorandum, if made in court, see Pref. § 11.

Covenant to surrender on a Mortgage of Copyholds.

- Recitals.* *This Indre made, &c. Betn (mortgagor) of, &c. of the one pt and (mortgagee) of, &c. of the or. pt* *Whas*
- Seisin.*

(recital of title) *And whas* the sd (*mortgagor*) having occasion for the sum of £ — hath agrd with the sd (*mortgagee*) for the loan thereof to him at int upon the security [of the bond or obligation of the sd (*mortgagor*) and] of such surrender by way of mtge of the messes or tents lds and hereds and of such covts and agrts respecting the same as hnafr are contd *Now this Indre Witnesseth* That in conson of the sum of £ — of, &c. to the sd (*mortgagor*) in hand, &c. by the sd (*mortgagee*) at, &c. the rect, &c. He the sd (*mortgagor*) *Doth* hby for himself his hrs exs and ads covt promise and agree with and to the sd (*mortgagee*) his hrs and ass that he the sd (*mortgagor*) his hrs exs ads and ass shall and will at his and their own costs and chas at the next general court to be holden in and for the sd manor of in the co. of (or ' of the manor or manors whof the sd messes or tents lds and hereds hnafr described are holden') well and effectually surrender into the hands of the lord or lords lady or ladies according to the custom of the manor *All those* customary or copyhold messes, &c. Togr with all houses, &c. And the revn, &c. And all the estate, &c. To the use of the sd (*mortgagee*) his hrs and ass for ever to the intent that he or they may be duly admitted tenant or tenants of the sd hereds and preses hby covenanted to be surrendered *To Hold* the same at the will of the lord according to the custom of the manor subject to the rents duties suits and services due and paye in respect of the same And also the proviso or agrt for redemption hnafr contd And the sd (*mortgagor*) for himself his hrs, &c. doth hby covt, &c. with, &c. the sd (*mortgagee*) his hrs and ass that until such surrender as afd shall be made by the sd (*mortgagor*) and the sd (*mortgagee*) and his hrs shall be admitted tenant or tenants of the sd preses he the sd (*mortgagor*) or his hrs shall and will stand and be seised of and interested in the sd copyhold hereds and preses in trust for the sd (*mortgagee*) his hrs or ass *Provided always* and it is hby decl'd, &c. and agrd by and betn the pties to these prests and the true intent and meaning of them and of these presents are that the sd surrender or surrenders hby covenanted to be made shall enure to the use of the sd (*mortgagee*) his hrs and ass upon this express condon that if the sd (*mortgagor*) his hrs, &c. do and shall well, &c. pay, &c. at or in, &c. on, &c. the full and just sum of £ — of, &c. with int, &c. for the same after the rate of £ — for evy £ 100 by the yr witht any abatement or deduction on acct of rates or taxes or any or, acct whatsoever

Of Copy-holds.

Contract for loan.

Testatum.

Covenant to surrender.

Proviso for avoidance of covenant, &c.

Of Copy-holds. (a) [And also if the sd (*mortgagor*) his hrs or ass shall first pay unto the sd (*mortgagee*) his exs ads and ass at the time and place afd all rents fines or or. outgoinges which he the sd (*mortgagee*) his exs ads or ass may have pd or incurred in respect of the sd copyhd hereditas and preses hby covtd to be surrendered or any pt thof with int for the same at the rate afd] Then the sd surrender or surrenders so to be made of the sd copyhd hereditas and preses as afd and these prests and evy article clause matter or thing herein contd shall determine and be absolutely void to all intents and purps whatsr And the sd (*mortgagor*) for himself, &c. doth hby covt declare and agree with and to the sd (*mortgagee*) his hrs and ass in manner following that is to say That he the sd (*mortgagor*) his, &c. shall and will pay or cause to be paid unto the sd (*mortgagee*) his exs ads and ass the sd sum of £ — at the time and place and in manner hnbefe appted for the paymt of the same with int after the rate afd And also all or. customary payments outgoinges and exps mentd or specified in the provo or agrt for redemption hnbefe contd And that he now hath in himself good right full power and lful authty to surrender the sd messes or tents hereditas and preses and every of them and evy pt and pcl of the same with their rights members and apts unto the sd (*mortgagee*) his hrs and ass at the will of the lord according to the custom of the sd manor And furr in case deft shall be made in paymt of the sum of £ — and int and of the sd customary paymts outgoinges and exps in respect of the sd preses contrary to the true intent and meaning of these prests and of the proviso or agrt for redemption hnbefe contd it shall and may be lful for the sd (*mortgagee*) his, &c. after such surrender so covenanted to be made as afd and he or they shall have been duly admitted tenant or tenants thereto peaceably and quietly to enter into, &c. the sd messes, &c. and to rece and take the rents issues and prfts thereof and of evy pt and pcl thereof witht any let suit trouble, &c. or denial whatsr of from or by the sd (*mortgagee*) his hrs or ass or any or. psn or psns whomsr And that free and clear, &c. and for ever discharged or orwise by the sd (*mortgagor*) his hrs exs or ads well and sufficiently saved defended kept harmless and indemnified of from and agst all and all manner of former and or. gifts grants, &c. and incumbrances whatsr save and except the rents duties suits and ser-

To pay mortgage money.

Covenants for title.

Mortgagee to enter after default.

Quiet enjoyment.

(a) See Obs. 2.

vices to be pd rendered and performed in respect of the same preses according to the custom of the sd manor *And moreover* that he the sd (*mortgagor*) and his hrs and all and evy or. psn or psns claiming, &c. shall and will at the request of the sd (*mortgagee*) his hrs or ass but at the costs chas and exps of the sd (*mortgagor*) his hrs, &c. make do acknge exte and perfect all, &c. acts, &c. for the more effectually and absolutely surrendering and assuring the sd copyhold heredit hby covtd to be surrendered and evy pt or pcl thereof with their apts unto, &c. at the will, &c. according to the custom of the sd manor as by the sd (*mortgagee*) his hrs or ass or his or their counsel in the law shall be reasonably advised devised or required (add covt to ensure, and that mortgagor shall enjoy until default, see *Gen. Precedent*) *In Witness, &c.*

Of Copy-holds.

Further assurance.

Deed of Covenants to accompany a Surrender of Copyholds by way of Mortgage.

This Indre, &c. made, &c. Betn (mortgagor) of, &c. of the one pt and (mortgagee) of, &c. of the or. pt Whas, &c. (recite title and also contract for loan) And whas in pursuance of the sd treaty and in conson of the sum of £ — to the sd (*mortgagor*) pd by the sd (*mortgagee*) the rect of which the sd (*mortgagor*) doth hby acknge and of and from the same doth acquit rele and discharge the sd (*mortgagee*) his hrs exs ads and ass for ever the sd (*mortgagor*) did on the day of duly surrender into the hands of the lord of the sd manor according to the custom thereof to the use of the sd (*mortgagee*) his hrs and ass *To be holden* at the will of the lord according to the custom of the manor by the rents and services thereof due and of right accustomed *subject nevss* to a provo or condon for making void the same as by reference to the sd surrender will more fully appear *Now this Indre Witnesseth* That in conson of the preses He the sd (*mortgagor*) for himself his hrs exs ads and ass doth hby covt promise and agree with and to the sd (*mortgagee*) his hrs exs ads and ass That he the sd (*mortgagor*) shall, &c. (pay mortgage money, &c. see *last precedent*) *And also* that he the sd (*mortgagor*) had at the time of surrendering the sd copyhd messe, &c. as afd good right, &c. to surrender convey and assure the sd copyhd messe, &c. *And furr* that in the mean time and until the sd (*mortgagee*) or his hrs shall be admitted tenant or tenants of the sd copyhold heredit so surrendered to his and their use as afd he the sd (*mortgagor*) and his hrs shall and will stand and be

Recitals, seisin, &c.

Surrender.

Testatum.

Covenants.

Of Copy-holds. seised or possessed of and interested in the sd copyhold messes, &c. *In Trust* for and for the sole use and bent of the sd (*mortgagee*) his hrs and ass *subject nevs* to the condon or provo for redemption contd in the sd hnbesfe in pt recited surrender And in case deflt shall be made, &c. (see *last precedent*) it shall and may be lful to and for the sd (*mortgagee*) his hrs exs ads or ass peaceably and quietly to enter into, &c. *And moreover* that he the sd (*mortgagor*) and his hrs and all and evy or. psn, &c. shall, &c. make, &c. (acts for further assurance, see *last precedent*. Add also covenant for insurance and other covenants if necessary, see *Gen. Prec. and Notes*) *In Witness*, &c.

Memorandum of a Surrender in Court by a Mortgagor.

Obs. As to the stamp, see Obs. 3.

Manor of in } *Be it Remembered* that at a court
 the co. of } holden in and for the sd manor on
 the day of came the (*mortgagor*) (a) a copy-
 holder or customary tenant of the sd manor before
 (*steward*) of, &c. steward of the sd manor and in
 conson of the sum of £ — to the sd (*mortgagor*)
 in hand pd by the sd (*mortgagee*) (b) Did surrender into
 the hands of the lord of the sd manor by the hands and
 acceptance of the sd (*steward*) according to the custom
 of the sd manor *All that messe, &c. (parcels)* with the
 apts And the revn, &c. And all the este, &c. to the use
 of the sd (*mortgagee*) his hrs and ass for ever by the
 copy of court-roll at the will of the lord according to
 the custom of the sd manor at the rents and services
 therefore due and of right accustomed subject nevs to
 and upon this express condon that if the sd (*mortgagor*)
 his hrs exs ads or ass do and shall well and truly pay
 or cause to be pd unto the sd (*mortgagee*) his exs ads
 or ass the sum of £ — of lful, &c. at, &c. and on, &c.
 togr with int for the same after the rate of 5l. per cent.
 per annum computed from the date of this surrender
 clear of all taxes and or. deductions whatsr Then this
 surrender is to be void and of no effect orwise it is to
 remain in full force and virtue

Bond to accompany the Surrender.

Obligation. *Know all Men*, &c. (as to the form of the obligation,

(a) If the wife join, say, 'and M his wife copyholders and customary tents.'

(b) If the wife join, 'the sd (*wife*) being first examined by the sd (*steward*) separate and apart from her husband and freely con-

see *Bonds*, vol. i. p. 240) *Whas* the above-bounden (*obligor*) being a copyhold tenant of the manor of N in the co. of S has this day in conson of the sum of £ — by the sd (*obligee*) to the sd (*obligor*) well and truly pd surrendered into the hands of the lord (or 'lady' as the case may be) of the sd manor (or 'by the acceptance of (steward) of, &c. the steward of the sd manor or by the acceptance of A B and C D two customary tenants of the sd manor) All, &c. to the use of the sd (*obligee*) his hrs and ass for ever at the will of the lord according to the custom of the sd manor at or under the rents fines and services therefore due and of right accustomed subject nevss to a provo or condon for the redemption of the sd copyhd preses as by reference to the sd surrender will more fully appear

Of Copy-holds.

Now the Condition of the above-written bond or obligation is such That if the sd (*obligor*) his hrs exs or ads do and shall well and truly pay or cause to be pd unto the sd (*obligee*) his exs ads and ass the sd principal sum and int and all heriots fines fees for admittances and customary dues and paymts whater (not exceeding the sum of £ —) which he the sd (*obligee*) his exs ads or ass shall pay or become liable to pay in respect of the sd copyhd preses at the time of his admission thereto with int for the same after the rate afd according to the true intent and meaning of the sd surrender and the provo or agrt for redemption thereincontd And also if he the sd (*obligor*) was at the time of making the sd surrender lfully and rightfully seised to him and his hrs of the sd copyhd to his and their own use for an este of inhance therein according to the custom of the sd manor And also if he then had good right full power and lful and absolute authty to surrender the same to the use of the sd (*obligee*) And that free and clear from all estes liens charges and incumbs whater (save and except the rents duties and services for the sd copyhd preses due and of right accustomed according to the custom of the sd manor) And moreover if he the sd (*obligor*) and his hrs and all psns claiming or to claim any este charge or int in or to or out of the sd copyhd preses do and shall at the request of the sd (*obligee*) his exs ads and ass but at the costs and chas of the sd (*obligor*) his exs ads and ass make exte and perfect or cause to be made exted and perfected all such furr and or. surrenders and assurances for the more effectually conveying and as-

Condition.

senting thereto,' see *Fines and Recoveries*, Pref. § 7, 8. If out of court, instead of the above, say, 'did out of court surrender,' &c. If the wife join say, 'And (w/fc) his wife or either of them their or either of their hrs do, &c.'

Of Copy-holds. suring the sd copyhd preses with the apts to the use of the sd (*obligee*) his exs ads or ass or his or their counsel in the law shall reasonably advise and require Then, &c.

Admittance of a Mortgagee.

Manor of in } At a court-baron holden for this
 } the co of } manor on the day of it was
 } found by the homage then and there assembled That
 } at a court holden for the lord of this manor on the
 } day of (*mortgagor*) a customary or copyhd tenant
 } of this manor surrendered into the hands of the lord by
 } the acceptance of (*steward*) steward of the sd manor
 } All that customary messe, &c. with the close, &c. con-
 } taining acres (be they more or less) and the apts
 } thereunto belonging situate, &c. in the manor afd then
 } in the tenure or occupation of I F to the use and be-
 } hoof of the sd (*mortgagee*) his hrs and ass at the will
 } of the lord according to the custom of the sd manor
 } Upon Condition that if the sd (*mortgagor*) should pay
 } unto the sd (*mortgagee*) his exs ads and ass the sum of
 } £ — of, &c. with int for the same after the rate of
 } £ — for evy 100l. by the yr with all customary paymts
 } outgoings and int thereon as in the surrender mentd
 } And it was also found by the sd homage that the sd
 } sum of £ — with int thereon was not pd and satisfied
 } according to the form and effect of the sd condon in
 } the sd surrender mentd and is yet unpd as by the
 } acknowledgment by the sd (*mortgagor*) made in full
 } court now appeareth whby the este and int of the sd
 } (*mortgagee*) of and in the sd preses is become absolute
 } at law Now therefore at this court came the sd (*mort-
 } gagee*) in his proper person and prayed to be admitted
 } tenant to the sd customary messe or tent and preses
 } accordingly to whom the lord of the manor afd by his
 } steward granted seisin thereof To Hold the same messe,
 } &c. with all and singr the apts unto the sd (*mortgagee*)
 } his hrs and ass for ever at the will of the lord accord-
 } ing to the custom of the sd manor by the rents duties
 } and services therefore due and of right accustomed
 } And he gave to the lord £ — for a fine but his fealty
 } was respited And so saving to the lord his rights the
 } sd (*mortgagee*) was admitted tenant to the sd preses in
 } manner and form afd

(Steward)

In the presence } I A
 } of } R L

Mortgage of a Leasehold for a Term of Years by Assignment. (Variations, where it is by Underlease, also where there is a Power of Sale.)

Leaseholds.

Obs 1. It is now settled, that where a party takes an assignment of a lease by way of mortgage, the whole interest passes to him, and he becomes liable to the rent and covenants; *Williams v. Bosanguet*, 1 B & B. 258. To prevent this liability, where a lease is clogged with onerous stipulations, an underlease is recommended; but as there is no privity, either of estate or contract between the original lessor and an underlessee, (see *Leases*, Pref. § 16,) a mortgagee loses, by an underlease, the benefit of the covenants in the lease. Upon the whole, therefore, the assignment, except in particular cases, is the preferable mode. As to the registering of leaseholds, see *Memorials*, Pref. § 4; and as to renewable leaseholds, see *next precedent*.

2. As to the stamp, see Pref. § 11.

3. For variations, where there is a policy of insurance to be assigned, see *Assignment of a Lease*, vol. i. p. 168.

This Indre made, &c. Betw (mortgagor) of, &c. of the one pt and (mortgagee) of, &c. of the or. pt Whas (recite original lease, also mesne assignments if any there be, see Assignment of a Lease, vol. i. p. 167) And whas (recite contract for loan, see Gen. Prec.) Now this Indre Witnesseth That in pursuance of the sd agrmt and in conson of the sum of £ — of lful, &c. to the sd (mortgagor) in, &c. pd by the sd (mortgagee) at, &c. the rect whereof, &c. He the sd (mortgagor) Hath granted bargained (a) sold assd transferred and set over and by, &c. Doth bargain, &c. unto the sd (mortgagee) his exs ads and ass All that the sd piece and pcl of ld messe or tent and preses comprised in the sd in pt recited indre of lease and evy pt and pcl of the same with their and evy of their rights members and apts togr (b) with the same indre of lease and all bent and advantage thereof and all or. deeds evidences and writings relating to the sd preses now in the custody posson or power of the sd (mortgagor) And all the este (c) right title int use trust property posson bent term or terms for yrs claim and demand whatsr both at law and in equity or orwise howsr of him the sd (mortgagor) of in to and out of the sd piece or pcl of land messe or tent and preses hby granted (d) and assigned or orwise

(a) If it be an underlease instead of an assignment, say, 'Hath bargained demised, and to farm letten and by, &c. doth bargain, &c. all, &c.'

(b) These words, in an underlease, are superfluous, see *Lease*, Pref. § 16; and Obs. 1 to this precedent.

(c) This clause, though not properly applicable, is usually inserted in an underlease, but it is understood to be qualified by the *habendum*, see *Lease*, Pref. § 8.

(d) If it be an underlease, say, 'hby demised or orwise, &c.'

*Lease-
holds.*

assured or intended so to be *To Have and to Hold* the sd piece and pcl of ld messe or tent, &c. comprised in, &c. and all and singr or. the preses hby assd or orwise assured or intended so to be and evy pt and pcl of the same with the appts unto the sd (*mortgagee*) his exs ads and ass for and during the rest residue and remr of the sd term of yrs therein now to come and unexpired (a) freed and absolutely discharged and by him the sd (*mortgagor*) his exs, &c. effectually indemnified of from and agst the rents (b) covenants and agrmts reserved and contd in the sd in pt recited indre of lease and which on the tenant or lessee's pt are or ought to be pd done and observed (c) *Subject* nevss to the provo or condon for redemption hnafttr contd that is to say *Provided always* and it is hby decld and agrd by and betn the pties hereto and the true intent and meaning of them and these prests is that if the sd (*mortgagor*) his hrs exs ads or ass do and shall, &c. pay, &c. at or in, &c. the full and just sum, &c. with int for the same upon the, &c. witht any deduction, &c. Then these prests and evy clause matter and thing herein contd shall cease determine and be utterly void (d) [And he

(a) If it be an underlease, say, 'save and except the last day (or 'the last six days' as the case may be) of the sd term.)

(b) These are mere words of covenant, both in an assignment and an underlease, and serve only to bind the mortgagor personally.

(c) If it be an underlease, here add, '*Yielding and Paying* therefore yrly and evy yr during the sd term hby demised unto the sd (*mortgagor*) his exs, &c. the rent of one peppercorn if demanded *Subject*, &c.

Power of
sale.

(d) If there be a power of sale, then add as follows, 'But in case deft shall happen to be made in paymt of the sd sum of £ — with int for the same at the time and place and in manner hnbefe appted for paymt of the same contrary to the true intent and meaning of these prests and of the provo, &c. and the sd (*mortgagee*) his exs ads or ass shall have given to the sd (*mortgagor*) his, &c. or left at his or their, &c. notice to pay the sd, &c. and six mths shall have elapsed witht paymt having been made Then and in that case it shall and may be lful for the sd (*mortgagee*) his exs ads and ass witht any furr consent of the sd (*mortgagor*) his, &c. to enter into the sd preses and to make sale, &c. And also to convey and assign the sd preesses so sold unto and to the use of the purchaser or purchasers thereof or to such pson or psons as he or they shall direct and appt absolutely freed, &c. And to rece the purchase money for the same preesses And thereout in the first place to retain and pay the costs of and attending such sale or sales and all or. costs and chas incident thereto or to the exon of this present power And in the next place to repay and satisfy unto the sd (*mortgagee*) his exs ads and ass the sd principal sum of £ — and int hby secured to him or such pt thof resply as shall then remain due and after and subject to the sevl paymts as afd it is hby agrd that the sd (*mortgagee*) his exs ads or ass do and shall pay over and account for the ultimate residue or surplus (if any) of the sd mos unto the sd (*mortgagor*) his exs ads or ass or either of them

the sd (*mortgagee*) his exs or ass shall and will at the request costs and chas of the sd (*mortgagor*) his exs ads or ass reassign (a) the sd piece, &c. and preses hby assd or, &c. unto and to the use of the sd (*mortgagor*) his exs, &c. or as he or they shall direct and appt free from incumbrs in the mean time to be made done or committed by the sd (*mortgagee*) his exs ads or ass or any or. psn or psns whomsr claiming, &c. by from or under them] And the sd (*mortgagor*) for himself his hrs exs ads and ass doth hby covt, &c. with, &c. the sd (*mortgagee*) his exs ads and ass in manner following that is to say That he the sd (*mortgagor*) his, &c. shall, &c. (pay mortgage money, see *Gen. Prec.*) And (b) also shall and will from time to time and at

Lease-holds.

And also do and shall, &c. (reassign, &c.) *Provided always* and it is hby furr decid, &c. that any rect which shall be given by the sd (*mortgagee*) his, &c. for any money recd under the power afd shall be a legal and conclusive discharge to the psns paying the same and for ever rele and discharge the same psn or psns from all obligations to see to the application of the same money and from all liability by reason of any misapplication, &c. And that every sale, &c. entered into and extd by the sd (*mortgagee*) in exon of the power afd shall be binding and conclusive And furr that the purchaser or, &c. shall not be obliged to enquire whether debt shall have been made in the paymt of, &c. hby secured but on the contrary the production of these prests to such purchaser or, &c. witht any rect or memorandum of paymt indorsed shall be conclusive evidence of the non-payment thof (See power of sale more at large under *Mortgage of Freeholds*) And it is hby furr decid and agrd and parliarly the sd (*mortgagee*) for himself, &c. doth hby declare and agree with, &c. the sd (*mortgagor*) and his exs ads and ass that no sale of the sd messe ld and preses shall be made (unless posson of the same shall become vacant or the sd (*mortgagor*) his exs ads or ass shall not regularly pay and perform the rent and covts in and by the sd in pt recited indre reserved and contd) until such notice shall have been given as afd and six calr mntbs shall have elapsed witht paymt of the sd principal, &c. And also that he the sd (*mortgagee*) his exs ads and ass shall and will at the expense of the sd (*mortgagor*) his exs, &c. at any time before such sale as afd on paymt or tender by the sd (*mortgagor*) his hrs exs ads or ass of the sd principal sum of £ — and int which shall be then due and owing togr with all costs chas and exps which he or they shall have pd or incurred in the exon of the power hnbefe given reassign or reassure the sd messe piece, &c. and preses or such pts thereof as shall remain unsold with the apts unto the sd (*mortgagor*) his exs, &c. or as he or they, &c.' See above.

(a) If by underlease, say, 'assign the sd preses hby demised, &c.'

(b) If there be a power of sale, say 'And also from and immly after the exon of these prests until some sale or disposition of the sd preses shall be made by the sd (*mortgagee*) his exs ads or ass pursuant to the power hnbefe given or he or they shall be in rect of the rents and prfts thereof under and by virtue of these prests be the sd (*mortgagor*) his exs ads or ass shall and will pay all and evy the rent and taxes reserved charged and made payable, &c. as above.

Lease-holds. all times hraft until the sd sum of £ — and int shall be so fully pd and satisfied (except only during such period of the sd term hby assd (a) as the sd (*mortgagee*) his exs, &c. shall or may be in the actual posson of the sd piece, &c. and preses or in the rect of the rents and prfts thereof under or by virtue of these prests or orwise) well and actually pay or cause to be pd all and evy the rent, &c. and taxes reserved charged and made payable in respect of the sd preses and truly observe and perform all and singr the covts provos and agrmts in the sd indre of lease contl and which are on the tenant or lessee's pt and behalf to be pd observed and performed and shall and will exonerate save harmless and keep indemnified the sd (*mortgagee*) his exs ads and ass from and agst the paymt and performance of the same rent covts and agrmts resply and all actions suits penalties forfeitures costs chas and dams whatsr which may happen by reason or on acct of the same *And also* that the sd hnbefe recited indre of lease, &c. (is valid and subsisting, see *Assignment of Lease*, vol. i. p. 169)

Lease valid. *And also* that he the sd (*mortgagor*) hath (good right to grant and assign (b) *And furr* (c) that in case deflt shall happen to be made in paymt of the sd principal sum of £ — and int *And also* in paymt of the sd rent and performance of the sd covts hnbefe mentd contrary to the true intent and meaning of these prests and the proviso and covenant hnbefe contd it shall and may be lawful for the sd (*mortgagee*) his exs ads and ass and they are hby expssly authorized and empowered immly thereafter during the residue of the sd term (d) of yrs peaceably and quietly to enter into and upon and to have, &c. the sd messe, &c. and preses hby assd (e) and every pt thereof, &c. wtht any let, &c. of from or by the sd (*mortgagor*) his exs ads or ass or any or. pson or psns whomsr *And* that free, &c. and abso- lutely acquitted, &c. saved harmless and kept indem-

Good right to assign.

Quiet enjoyment.

Free from incumbrances.

(a) If by underlease, 'hby demised'

(b) If by underlease, 'grant and demise'

(c) If there be a power of sale, say, '*And furr* that from and immly after the exon of these prests until the sd principal and int and or. mos intended to be hby secured shall be fully pd and satisfied or the sd preses shall be sold or disposed of in pursuance of the power hnbefe given the same shall remain vested in the sd (*mortgagee*) his exs ads and ass for the residue of the sd term (if by demise, 'wanting one day') upon the trusts, &c. *And* from and immly after such sale or disposition shall be made it shall be lful for the purchaser, &c. peaceably, &c. to enter, &c. wtht any let, &c. of from or by the sd (*mortgagor*) &c.

(d) If by underlease say, 'during the residue of the sd term of yrs 'wanting one day' or, 'six days' or more, as the case may be'

(e) If by underlease, say, 'hby demised'

nified of from and agst all, &c. former and or. gifts, &c. and incumbrances whatsr or. than the rent covts and condons reserved and contd in and by the sd in pt recited lease *And moreover* (a) that he the sd (*mortgagor*) and all and evy or. psn or psns having or lfully or equitably claiming any este right, &c. in, &c. the sd preses hby assigned (b) or orwise assured or intended so to be or any pt thereof shall and will from time to time, &c. whilst the sd principal sum of £ — and int or any or. mos intended to be hby secured shall remain due and unsatisfied upon evy reasonable request of the sd (*mortgagee*) his exs, &c. but at his and their own proper costs and chas make do exte and perfect all such or. lful acts, &c. for the furr more perfectly and absolutely assigning (c) or orwise assuring the sd messe, &c. and preses and evy pt thereof with the apts unto the sd (*mortgagee*) his exs ads and ass thenceforth during all the residue of the sd term as by him or them or his or their counsel in the law shall be reasonably advised devised or required (as to covenants for insurance and other covenants, see *Gen. Prec.*) *Provided also* and it is hby decld, &c. that until deft shall be made in paymt of the sd sum of £ — and int it shall be lful for the sd (*mortgagor*) his exs ads and ass he and they paying the rent and performing the covts and agrmts in and by the sd in pt recited indre of lease reserved and contd and exonerating and indemnifying the sd (*mortgagee*) his exs, &c. from and agst the same as afl to hold occupy and enjoy the sd pice, &c. hby assd (d) for and during the residue of the sd term of yrs without any let, &c. of from or by the sd (*mortgagee*) his exs, &c. or any psn claiming, &c. by, &c. him or them *In Witness, &c.*

Lease-holds.

Further assurance.

(a) If there be a power of sale, say, '*And moreover* that he the sd (*mortgagor*) his, &c. shall and will, &c. upon every reasonable request of the sd (*mortgagee*) his exs ads or ass or of any purchaser of the sd preses under and by virtue of these prests but until such sale or disposition of the sd preses shall be made by the sd (*mortgagee*) his exs, &c. as afl at the costs and chas of the sd (*mortgagor*) his exs, &c. and after such sale as afl by the psn or psns requiring the same make, &c. for the more perfectly assigning, &c. the sd messe, &c. unto the sd (*mortgagee*) his exs, &c. or the sd purchaser, &c. as by him or them or his or their counsel in the law shall, &c. (add here, proviso that the acts, &c. of mortgagee shall be valid. Also six months' notice to be given to mortgagor. See *Mortgage of Freeholds with Power of Sale*. And covenants for insurance and quiet enjoyment until default, see *Gen. Prec.*)

(b) If by underlease, 'hby demised'

(c) If by underlease, 'demising'

(d) If by underlease, 'hby demised for and during the residue of the sd term of yrs wanting one day with, &c.' as above.

Mortgage of a renewable Leasehold for Years. (Variations where it is a Leasehold for Life or Lives, or for Years determinable on a Life or Lives; also, where it is not renewable, and where there is a Life Insurance.)

Obs. 1. When a renewable lease is the subject of a mortgage, a covenant should be introduced on the part of the mortgagor, that he will procure the renewal of the lease, or the lives to be filled up at his own expense, otherwise, the mortgages cannot compel him to do it; but he must pay the expense of renewal, and reimburse himself, by adding it to the principal; *Lacon v. Mertens*, 3 Atk. 4. For variations, where it is by underlease, and with power of sale, see *last precedent*.

2. When a mortgage is effected upon a lease for life or lives, which is not renewable, it is usual to have the single life, or the life of the survivor of several insured. This may be done by the mortgagor, previous to the execution of the mortgage deed, and the policy of insurance assigned at the same time; or by the mortgagor entering into a covenant, to insure and assign the policy of insurance; or, which is the safer course, there may be a covenant introduced enabling the mortgagee to insure.

Recital of
original
lease.

This Indre made, &c. Betw (mortgagor) of, &c. of the one pt and (mortgagee) of, &c. of the or. pt Whas (a) by indre of lease bearing date, &c. and made betw the mayor commonalty and citizens of of the one pt and the sd (mortgagor) of the or. pt For the consons therein-mentd the sd mayor, &c. Did grant demise and to farm let unto the sd (lessee) All that messe, &c. situate, &c. with the apts To Hold the same with the apts unto the sd (M) his exs ads and ass for the term of yrs subject to certain covts and condons therein contd And in the now reciting indre is contd a covt on the pt of the sd (lessors) that they the sd lessors or their successors should and would at the request costs

(a) If it be a lease for lives, say, 'Whas by an indre of demise bearing date, &c. and made betw (lessor) prebendary of of the one pt and (mortgagor) of, &c. of the or. pt and by livery of seisin made in pursuance thereof the sd (lessor) for the consons therein mentd Did grant and demise unto the sd (M) All, &c. To Hold the same with the apts unto the sd (M) his hrs and ass from the making thereof for and during the natural lives of (nominees) and the natural life of the longest liver of them under and subject to the yrly rent and the sevl covts and agrmts therein contd on the pt of the sd (M) his hrs and ass to be resply pd observed and performed as in and by the sd indre relation being thereto had will more fully appear.'

If it be a lease for years determinable on lives, say, 'Whas by indre bearing date, &c. and made betw, &c. the sd (lessor) for the consons, &c. did grant, &c. unto the sd (mortgagor) his, &c. All that capital messe, &c. To Hold the same, &c. unto the sd (M) for and during the term of yrs if A B of, &c. aged C D of, &c. aged and E F of, &c. should so long live at or under the yrly rent, &c. and subject to the covts, &c.'

and chas of the sd (*M*) his exs or ads at the end of yrs exte a new lease of the sd thby demised preses at and under the same rent and with the like provisos to commence at the expiration of the sd term of yrs and so from time to time for ever at the end of evy yrs he or they paying for such renewal unto the sd (*L*) the sum of £ — by way of fine and exting a counterpt of evy such lease *And whas* (recite contract for loan) *And whas* the sd (*mortgagor*) hath obtained a full licence and authty in writing under the hand and seal of the sd (*lessors*) enabling him to assign the preses comprised in the sd indre of lease *Now this Indre Witnesseth* That in conson of the sum of £ — by the sd (*mortgagee*) in, &c. to the sd (*mortgagor*) at, &c. pd the rect whereof the sd (*mortgagor*) doth hby acknge and of and from the same doth acquit, &c. the sd (*mortgagee*) his hrs exs ads and ass He the sd (*mortgagor*) *Hath* bargained (*a*) sold assigned transferred and set over and by these prests *Doth* bargain, &c. unto the sd (*mortgagee*) his exs ads and ass *All that*, &c. Togtr with the sd indre &c. And all the este, &c. *To Have and to Hold* the sd piece and pcl of ld and all and singr or. the preses hby assd (*b*) or orwise, &c. and evy pt and pcl thereof with the apts unto the sd (*mortgagee*) his exs ads and ass from henceforth for and during the residue of the sd term of yrs freed and absolutely discharged or orwise well and sufficiently indemnified by him the sd (*mortgagor*) his exs ads and ass of from and agst the paymt of the rent and observance and performance of the covts condons and agrmts reserved and contd in and by the sd in pt recited indre of lease *Subject nevss* to the provo or agrmt for redemption hnafr contd that is to say *Provided always* (see *last precedent*) And the sd (*mortgagor*) for himself, &c. doth hby covt, &c. with the sd (*mortgagee*) his, &c. That he the sd (*mortgagor*) shall and will, &c. (pay mortgage money, see *Gen. Prec.*) *And also* shall and will, &c. (pay rent and perform covenants, see *last precedent*) *And also*

Lease-holds.

Grant of licence.

Proviso for redemption.

(*a*) For variations, where it is by demise, see *last precedent*.

If it be a lease for lives, say, ' *Hath* granted bargained aliened and released and by, &c. *Doth* grant, &c. unto the sd (*mortgagee*) his hrs and ass.' As a life estate is a freehold, it must be conveyed either by lease and release, or by feoffment with livery of seisin. See *Lease*, Pref. § 15.

(*b*) If it be a lease for lives, say, ' hby reld or. &c. unto the sd (*mortgagee*) his hrs and ass henceforth for and during the lives of the sd (*nominees*) or the life of the survivor of them.'

If it be a lease for years determinable upon lives, say, ' hby assd or, &c. unto the sd (*mortgagee*) his exs, &c. henceforth for and during the residue of the sd term of yrs if the sd (*nominees*) or either of them should so long live.'

Lease-holds.

that the sd hnbefe in pt recited indre of lease is a good valid and subsisting lease in the law and is and stands in full force for the residue (a) of the sd term of yrs renewable as afd and is in no wise merged forfeited surrendered assigned determined or become void or voidable or orwise prejudicially affected in title term charge este or orwise howsr *And also* that he the sd (mortgagor) hath, &c. (good right to assign (b) for the residue of the term *And furr* that in case deflt shall be made, &c. it shall be lful for the sd (mortgagee) (c) his exs ads or ass, &c. (quietly to enter, &c. see *last precedent*) *And* that free, &c. (see *last precedent*) *And moreover* That he the sd (mortgagor) his exs, &c. and all or. psns having, &c. any este, &c. in, &c. the sd preses hby assd (d) shall, &c. from time to time, &c. make, &c. all, &c. acts, &c. for the furr, &c. assigning (e) or orwise the sd preses unto the sd (mortgagee) his exs, &c. during the residue of the sd term, &c. (As to other covenants, see *Gen. Prec.*) *Provided also* and it is hby declnd and agrd, &c. and parlarly the sd (mortgagor) for himself his hrs, &c. doth hby covt, &c. with, &c. the sd (mortgagee) his exs, &c. that he the sd (mortgagor) his exs, &c. shall and will at all times so long as the sd principal and int shall remain due upon this secty (f)

(a) If it be a lease for lives, say, 'for and during the residue of the lives of the sd (nominees) or the life of the survivor of them.'

If it be a lease for years, determinable on lives, say, 'for and during the sd term of yrs determinable as afd.'

(b) If it be a lease for lives, say, 'hath good right, &c. to rele and convey the sd preses unto the sd (mortgagee) his hrs and ass for and during the lives of the sd (nominees) or the life of the survivor of them.'

If it be a lease for years determinable on lives, say, 'hath good right, &c. to assign, &c. unto the sd (mortgagee) his exs, &c. for the residue of the sd term of yrs determinable as afd.'

(c) If it be a lease for lives, say, 'for the sd (mortgagee) his hrs and ass quietly, &c. (see *above*.)

(d) If it be a lease for lives, say, 'hby reld or orwise, &c.'

(e) If it be a lease for lives, say, 'for releasing or orwise assuring, &c. the sd preses unto the sd (mortgagee) his hrs and ass for and during the lives of the sd (nominees) or the survivor of them.'

If it be a lease for years, determinable on lives, say, 'for assigning, &c. the sd preses unto the sd (mortgagee) his exs ads and ass for and during the residue of the sd term of yrs determinable as afd.'

(f) Or thus, 'and as often as the sd hnbefe recited indre of lease shall come in course to be renewed do his and their utmost endeavours to procure a good and effectual new lease to be granted to him the sd (mortgagee) his exs, &c. of the afd preses with the apts at and under the like rent and covts by which the same are now resply holden including a like covt to renew *And* shall, &c. pay all fines and premiums therefore and shall and will join in all such acts as shall be necessary and expedient for the purpe of such rencwal *And furr* that in case the sd (mortgagor) his exs, &c.

join and concur with the sd (*mortgagee*) his exs, &c. in all lful and necessity acts deeds matters and things

Leaseholds.

shall after notice in writing to him or them given by the sd (*mortgagee*) his exs, &c. requiring him or them to do his endeavours to obtain such renewal refuse or neglect so to do it shall be lful for the sd (*mortgagee*) his exs ads or ass at his or their sole discretion, &c. (*see above*) And it is hby furr decid that all and singr the preses comprised in these prests or in any new lease so to be obtained shall stand charged and chargeable with as well all sums of money which shall be pd by the sd (*mortgagee*) his exs in and about the procuring such new lease to the amount of £ — and no more togr with int for the same as also the sd principal sum of £ — and int And shall not be redeemed, &c. *as above*.

If it be a lease for years, determinable upon lives and not renewable, then, instead of the preceding covenant, say, 'And it is hby furr decid, &c. that in case either of them the sd (*nominees*) shall depart this life while the sd principal and int or any pt thof shall remain due and unsatisfied it shall, &c. be lful for the sd (*mortgagee*) his exs ads or ass to insure and keep insured in his own name or names in any one of the public insurance offices in the city of London or Westminster the sum of £ — on the life of the survivor of them the sd (*nominees*) And all sums of money which shall become due and paye to the sd (*mortgagee*) his exs ads or ass upon under or by virtue of any such insurance shall be held by him or them upon trust in the first place to deduct and retain the costs chas and exps incident to the procuring and keeping on foot such insurance and in the next place to retain deduct pay and satisfy unto and for himself his exs ads and ass the sd principal sum and int And after such deductions and paymts to pay the overplus (if any) unto the sd (*mortgagor*) his exs ads and ass And it is hby furr decid, &c. that all premiums and exps (to the amount of £ — and no more) togr with int thereon shall stand and be charged upon the sd preses and that the same shall not be redeemed, &c. (*as above*.)

Where it is a renewable lease for lives, there may be a proviso as before, enabling the mortgagee to renew, by inserting fresh lives as he thinks fit, or a covenant on the part of the mortgagor, as follows, 'And the sd (*mortgagor*) for himself, &c. doth covt, &c. that in case any or either of the nominees in the sd hnbefe in pt recited lease or in any future lease of the sd preses hbrafr to be made in pursuance of these prests shall happen to die whilst the sd principal sum and int or any pt thereof shall remain due and unsatisfied be the sd (*mortgagor*) his exs ads or ass shall, &c. at his and their own costs and chas as often as any death shall happen renew or cause to be renewed the sd lease and insert such life or lives as the sd (*mortgagee*) his exs ads or ass shall nominate or appt And shall, &c. convey and rele the sd renewed lease unto the sd (*mortgagee*) his hrs ass and shall, &c. bear and pay all fines and or. chas and exps of or for such renewals and conveyances resply And that the preses comprised in these preses and in any such new lease shall from time to time stand charged, &c. *as above*.

Where it is a lease for the life of the mortgagor, and the insurance is effected in his own name, then, instead of the above, say, 'And whas upon the treaty for the sd loan it was agrd that for the more effectually securing the repayment of the principal and int the sd (*mortgagor*) should insure the sum of £ — upon his life (which he has accordingly done) and that the bent of the sd insurance should be assigned to the sd (*mortgagee*) in manner hnafr mentd) Now this Indre Witnesseth That in pursuance of the sd

*Lease-
holds.*

whether the same be by surrender or orwise for obtaining the renewal of the subsisting lease for the time being of the afd preses unto the sd (*mortgagee*) his exs ads or ass *Subject* to the subsisting right title or equity of redemption of him the sd (*mortgagor*) his exs, &c. under or by virtue of these prests And in case the sd (*mortgagor*) his exs, &c. shall after notice in writing to him or them given by the sd (*mortgagee*) his, &c. requiring him or them to join and concur in any such acts as afd for the purpe afd refuse or neglect so to do it shall, &c. be lful to and for the sd (*mortgagee*) his exs, &c. at his and their sole discretion by surrender assnmt or orwise to obtain and procure a renewal or renewals from time to time of the subsisting lease of the sd preses subject to such right of redemption as afd And it is hby decld and agrd that all fines fees costs and chas of the sd (*mortgagee*) his exs ads or ass in or about the procuring or obtaining of such renewal or renewals togr with int for the same after the rate afd from the time or respive times of the payment of such costs and chas to the amount of £ — and no more shall stand charged and be chargeable upon the sd preses and the same shall not be redeemed and redecmable until payment by the sd (*mortgagor*) his exs ads or ass unto the sd (*mortgagee*) his exs ads and ass as well of such costs and chas to the amount afd as of the sd principal sum

*To pay
premium.*

agmt and for the consons hnbfefe expsd be the sd (*mortgagor*) Hath bargained sold and assd and by, &c. Doth bargain, &c. unto the sd (*mortgagee*) his exs, &c. All that the deed-poll or policy of insurance, &c. (see *Assignment of a Policy of Insurance*, vol. i. p. 184,) With full power, &c. (*Power of Attorney*, see vol. i. p. 153,) *To Have Hold* rece perceive take and enjoy the sd deed-poll instrument or policy of insurance and all and singr or. the preses liby lastly assd or orwise assured or intended so to be togr with all sums which become due or recoverable upon or by virtue of the same and all bent and advantage to be had or derived therefrom *Subject* nevns to the proviso or agmt for redemption hnbfefe contd And the sd (*mortgagor*) for himself his hrs, &c. doth covt, &c.' If the insurance is effected by the mortgagee, then say, ' *Whas* upon the treaty for the sd loan it was agrd that the sd (*mortgagee*) should insure and keep insured the life of the sd (*mortgagor*) in the sum of £ — And he hath accordingly effected an insurance in office in the sd sum of £ — *Now this Indre furr Witneseth* That for the consons hnbfefe expsd He the sd (*mortgagor*) for himself, &c. doth covt, &c. that the sd preses shall stand charged and chargeable with and be a secty for the paymt of all premiums and exps which he the sd (*mortgagee*) his exs, &c. shall pay bear, &c. (to the amount of £ — and no more) togr with int for the same And shall not be redeemed, &c. *And also* that he the sd (*mortgagor*) shall and will well and truly pay all such pemiums and sums of money which the sd (*mortgagee*) shall expend in respect of such insurance or in anywise relating thereto *Provided lastly, &c. (as above)*

of £ — and int intended to be hby secured *And also* that he the sd (*mortgagor*) his exs ads and ass shall, &c. well, &c. pay all sums of money which the sd (*mortgagee*) his exs ads or ass shall pay or expend in or about such renewals or any thing relating thereto *Provided Lastly* and the sd (*mortgagee*) doth hby consent and agree, &c. (*mortgagor* to enjoy until deft, see *Gen. Prec.*) *In Witness, &c.*

By
Trustees.

*Mortgage by Trustees of a Term of Five Hundred Years,
for raising Portions.*

Obs. If the tenant for life, heir, or reversioner under the limitations of the deed or will, be of age, it is desirable to make him a party of the third part.

This Indre made, &c. Beta (trustees) of, &c. of the first pt (mortgagee) of, &c. of the second pt and A B, &c. of the third pt Whas by indres of lease and rele, &c. and made betn, &c. purporting to be a settlement in contemplation of a marre then intended and aftwds solemnized betn, &c. the lds and hereds hnaft described were among or. things conveyed and assured to the use of the sd A B and subject thereto to the use of the sd (trustees) their exs ads and ass for and during the term of, &c. but upon the trusts nevss thnaft decl'd concerning the same and subject thereto to the use, &c. And in the same indre it is decl'd that the sd lds and hereds were so limited to the use of the sd (T) their exs, &c. for the term of yrs as afd upon trust by and out of the rents issues and prfts thereof or by sale demise or mtge of the sd hereds or a competent pt thof or by any or. lful ways and means whatsr to levy and raise any sum or sums of money not exceeding in the whole the sum of £ — for the provision of younger sons and daurs (if any) of the sd intended marre by way of portions on their resply attaining the age of 21 yrs as to sons and at that age or marre as to daurs And it was by the now reciting indre furr decl'd that the rects of trustees be valid dischas and that purchasers or mtgees should not be answerable or accountable for the application or nonapplication or misapplication of such purchase or mtge money And whas the sd (father) hath departed this life leaving A B an eldest son and C B and D B him surviving And whas the sd C B and D B have requested the sd (T) to pay them their sd portions And whas the sd (T) for the purpe of raising the sum of £ — have applied to the sd (mortgagee) to advance and lend them, &c. the same which he hath consented to do

*Recital of
settlement.*

*Trustees
empowered
to raise
portions by
mortgage.*

*Death of
the father,
&c.*

By on having the repayment thereof secured to him in
Trustees. manner as hnaft mentd *Now this Indre Witnesseth*
Testatum. That in conson of the sum of, &c. to the sd (T) in hand,
 &c. by the sd (mortgagee) &c. the rect, &c. They the
 sd (T) by virtue and in exercise and exon of the powers
 and trusts reposed in them in and by the sd hnbefe in
 pt recited indre of settlemnt and of all or. powers en-
 abling them in that behalf and with the consent and
 at the request and by the direction of the sd A B testi-
 fied by his being a pty to and sealing and delivg of these
 prests *Have* and each of them *Hath* bargd sold assigned
 transferred and set over and by, &c. *Do*, &c. bargain,
 &c. unto the sd (mortgagee) his exs ads and ass *All those*,
 &c. or orwise howsr the sd messes lds tents and heredts
 or any of them now are or is or heretofore were or was si-
 tuated tenanted called known described or distinguished
 and all or. the messes lds tents and heredts comprised
Habendum. in the sd term of yrs Togr with all houses, &c. *To*
Have, &c. for and during all the residue and remr of
 the sd term of yrs limited and created of and in the
 same heredts in and by the sd hnbefe in pt recited indre
 of settlement and which is therein to come and un-
 expired Subject nevss to the proviso or agrmt for re-
 demption hnaft contd that is to say *Provided always*
Proviso for and these prests are upon this express condon that if
avoidance the sd (T) their exs, &c. or the pen or psns for the
of the as- time being entitled to the sd heredts do and shall well
signment. and truly (pay, &c. And at the end of this proviso may
 be added a covenant for payment of the money by any
 owner of the estate) *And* each of them the sd (T) for
 himself and his respive hrs exs and ads doth hby covt,
 &c. that they the sd (T) have not nor hath either of
 them at any time or times heretofore made done exted
 or knowingly or willingly suffered any act deed matter
 or thing whatsr whby or by reason or means whereof
 the sd messes or tents lds heredts and preses hby ased
 or orwise assured or intended so to be or any pt or pcl
 of the samie with the apts are is can or may be im-
 peached charged incumbered or prejudicially affected
 in anywise howsr *In Witness*, &c.

Mortgage of a Reversion with Trusts for Sale.

This Indre made, &c. Betn (mortgagor) of, &c. of
 the first pt (mortgagee) of, &c. of the second pt and
 (trustee) of, &c. a trustee nominated by and on behalf
 of the sd (mortgagee) of the third pt *Whas* the sd
 (mortgagor) is seised of or orwise entitled to the sd

manors, &c. hnaft mentd and expssd to be hby granted and reld and the inhance thof in fee simple in remr expectant upon the dece of (*tenant for life*) of, &c. And whas the sd (*mortgagor*) hath applied to and requested the sd (*mortgagee*) to advance and lend him the sum of £ — which the sd (*mortgagee*) hath agrd to do upon the repaymt thereof with int for the same being secured to him in manner hnaftmentd Now this Indre Witnesseth That in conson of the sum of £ — of, &c. to the sd (*mortgagor*) in hand, &c. by the sd (*mortgagee*) at, &c. the rect, &c. and also in conson of 5s. by the sd (*T*) to the sd (*mortgagor*) in, &c. pd the rect, &c. He the sd (*mortgagor*) at the request and nomination of the sd (*mortgagee*) testified, &c. Hath granted bargd sold reld and confirmed and by, &c. Doth grant, &c. unto the sd (*T*) (in his actual posson, &c. see *Release, Gen. Prec.*) and his hrs and ass All those manors, &c. situate, &c. and belonging to the sd (*mortgagor*) subject to the life este of the sd (*tenant for life*) therein Togr with all houses, &c. And the revn, &c. And all the este, &c. To Have, &c. subject and witht prejudice to the life este of the sd (*tenant for life*) unto and to the use of the sd (*T*) his hrs and ass Upon the trusts, &c. i. e. Upon Trust to permit, &c. (see *Mortgage of Freeholds upon Trusts for Sale*) And that in case deft shall happen to be made, &c. contrary, &c. (six calr mths notice in writing having been previously given by the sd (*T*) h's exs, &c. to the sd (*mortgagor*) his hrs exs ads or ass to pay the sd principal sum of £ — and all int due for the same and such principal and int not being pd in compliance therewith) Then he the sd (*T*) his hrs or ass do and shall at any time or times thereafter either in the lifetime or after the dece of the sd (*tenant for life*) at the request of the sd (*mortgagee*) his exs ads or ass but without any furr or or. authty from or by the sd (*mortgagor*) his hrs or ass make sale and absolutely dispose of, &c. the sd manors, &c. hby, &c. or any pt thereof And subject to the life este of the sd (*tenant for life*) if living either togr, &c. And also shall and do make and exte, &c. all such conveyances and assurances in the law as shall be requisite and necessary to effectuate and complete such sale or sales as afd And shall and do by and out of the monies to arise from such sale or sales in the first place pay and satisfy all costs, &c. (see former *Precedents*) And in the next place shall, &c. pay and satisfy unto the sd (*mortgagee*) his exs ads and ass, &c. And after full paymt and satisfaction of the sd sums pay the surplus if any unto the sd (*mortgagor*) his exs, &c. And subject and witht pre-

*A Rever-
sion with
Trusts for
Sale.*

Testatum.

Habendum.

Declara-
tion of
trusts.

Declara-
tion of
trusts.

A Reversion with Trust for Sale.

Provisoes as to receipts, &c.

Mortgagor to enjoy until default.

Covenants from mortgagor.

judice to the trusts afd *Upon Trust* that the sd (T) his hrs exs ads and ass shall stand and be possessed of and interested in the sd hercdts and preses hby reld, &c. and the rents issues and prfts thereof which shall accrue after the determination of the este for life of the sd (*tenant for life*) therein or so much or such pts of the sd hercdts and preses rents issues and prfts as shall remain unsold and undisposed of for the purps afd *In Trust* for the sd (*mortgagor*) his hrs and ass *Provided always* and it is hby agrd, &c. that the rect or rects of the sd (T) his, &c. (see the *two last Precedents*) *And* that such purchaser, &c. shall not be obliged, &c. *And* it is hby decld, &c. that all sales conveyances, &c. shall be to all intents and purps valid and effectual in the law though, &c. *And furr* that the sd (T) his hrs and ass shall not be answerable, &c. (see *Mortgage of Freeholds with Power of Sale*) *Provided always* and it is hby decld and agrd that if the sd (*mortgagor*) his hrs exs ads or ass some or one do and shall well and truly pay, &c. unto the sd (*mortgagee*) his exs ads and ass *Then*, &c. (enjoy until default) *And* the sd (*mortgagor*) for himself his hrs, &c. doth hby covt with, &c. the sd (*mortgagee*) his exs, &c. That he, &c. (covt to pay principal, &c. (see *Gen. Prec*) *And* the sd (*mortgagor*) for himself his hrs, &c. doth hby covt, &c. with and to the sd (T) his hrs and ass *And* also with and to the sd (*mortgagee*) his exs ads and ass in manner, &c. That he the sd (*mortgagor*) is at the time of the sealing and delivery of these presents absolutely seised of the sd messe or tent lds hercdts and preses hby reld or orwise, &c. with the apts for an absolute este of inhance in fee simple subject only to the este for life of the sd (*tenant for life*) witht any manner of condon trust provo power of revocation limitation of uses or other restraint matter or thing whatsr to alter charge defeat determine revoke or make void the same este *And* that he the sd (*mortgagor*) has good right, &c. (to convey, &c. see *Gen. Prec.*) subject as in manner afd according to the true intent and meaning of these prests *And furr* that in case deflt shall be made in, &c. it shall and may be lful for the sd (T) his hrs and ass from time to time and at all times after the dece of the sd *tenant for life*) peaceably and quietly to enter in and upon the sd messe, &c. and to have hold use occupy possess and enjoy the same with their and evy of their apts and to use and take the rents issues and prfts thereof and of evy pt thereof witht any let, &c. of from or by the sd (*mortgagor*) his, &c. or of, &c. any or. psn or psns claiming, &c. from by under or in trust for him them or any of them or any

psn or psns through or under whom the sd (*tenant for life*) derives title *And moreover* that he the sd (*mortgagor*) his hrs, &c. and all and evy psn, &c. lfully or equitably claiming, &c. any este, &c. in the sd messe, &c. by from, &c. him the sd (*tenant for life*) or any psn or psns through whom the sd (*tenant for life*) derives title shall and will from time to time, &c. upon evy reasonable request of the sd (*T*) his hrs, &c. but until such sale at the expence of the sd (*mortgagor*) and after such sale at the expence of the psn requiring the same make do and exte all such acts deeds matters and things for more perfectly and absolutely granting conveying and assuring the sd hercdts and preses subject to the este for life of the sd (*tenant for life*) if living unto and to the use of the sd (*T*) his hrs and ass or orwise as he or they shall direct or appt or as by him or them or their counsel in the law shall be reasonably advised devised or required *In Witness, &c.*

Canal
Rates.

Mortgage of Canal Rates by the Proprietors.

Know all Men That we the Compy of Proprietors of the Canal in conson of the sum of £ — to us pd by A B *Do hby* by virtue of an Act of Parlmt passed in the yr of the reign of, &c. intituled, &c. (set forth the title) bargain sell and transfer unto the sd A B his exs ads and ass *All* and singr the rates and duties arising by virtue of the sd Act And also the sd harbour dock canal and undertaking And all the right title and int of the sd Compy of Proprietors of in and to the same *To Hold* the sd rates, &c. unto the sd A B his exs ads and ass until the sd sum of £ — togr with int for the same at the rate of £ — *per cent. per annum* shall be fully pd off and discharged

Given under our common seal the day of

Transfer of the above Mortgage.

Know all Men That I A B of, &c. in conson of the sum of £ — pd by C M of, &c. *Do hby* transfer a certain mortgage made by the Compy of Proprietors of the Canal, No. bearing date the day of for securing the principal sum of £ — and the int now due and hrafr to become due thereon and all my right and property therein unto the sd C M his exs ads and ass *In Witness* whercof I have hereunto set my hand and seal this day of A B

*Benefice.**Mortgage of a Benefice by a Rector or Vicar
under the 17 G. III. c. 53.*

Obs. Where the mortgage is made by the ordinary and patron without the incumbent, the deed must be varied accordingly.

This Indre made, &c. Betw the Rev. (rector or 'vicar' as the case shall be) rector (or 'vicar &c.') of the parish church ('curacy or chapelry) of in the county of and the diocese of the bishop of of the one pt and (mortgagee) of, &c. of the or. pt Whas the sd (rector or, &c.) pursuant to the directions of an Act passed in the seventeenth yr of his late Maj. King George the Third intituled 'An Act to promote the residence of the parochial clergy by making provision for the more speedy and effectual building rebuilding repairing or purchasing houses and other necessary buildings for the use of their benefices' hath obtained the consent of the ordinary of the sd diocese and the patron of the sd church and living to borrow and take up at int the sum of £ — to be laid out and expended in building rebuilding or repairing' (as the case shall be) the parsonage house and or. necessary offices upon the glebe belonging to the sd church ('chapel or curacy' as, &c.) as appears by an instrmt signed by the sd ordinary and patron hereunto annexed And whas the sd (mortgagee) hath agrd to lend and advance the sum of £ — upon a mtge of the glebe tithes rents prfts and emoluments of the sd living pursuant to the direction and the true intent and meaning of the sd Act Now this Indre Witnesseth That the sd (R or, &c.) in con-son of the sum of 5s. in, &c. pd and of the sum of £ — pd at or before the sealing hereof into the hands of (nominee or 'nominees' as the case may be) a psn (or 'psns') nominated by the sd ordinary patron and incumbent to rece the sum pursuant to the direction of the sd Act (which nomination is also hereunto annexed) the rect of which sd sum of £ — the sd (nominee or nominees) have or hath acknowledged by an indorsement on the back of the deed Hath granted bargd sold and demised and by these prests Doth grant bargain sell and demise unto the sd (mortgagee) his exs ads and ass all the glebe lands tithes rents moduses compositions for tithes salaries stipends fees gratuities and or. emoluments and prfts whatsr arising coming growing renewing or paye to the sd (R or, &c.) of the sd living in respect thereof with all and evy their apts unto the sd (mortgagee) his exs ads and ass from henceforth for and during the term of yrs fully to be complete and

ended in as full ample and beneficial a manner and with such remedies and powers for obtaining and recovering the same and evy pt thereof to all intents and purps as the sd (R or, &c.) his successors rectors (or 'vicars') of the sd church might or ought to have held enjoyed rectd taken or recovered the same if these prests had not been made And the sd (rector or, &c.) for himself his hrs exs, &c. doth hby covt, &c. with the sd (M) his exs ads and ass that he the sd (R or, &c.) during the time he shall continue rector (or 'vicar, &c.') of the sd parish and parish church shall, &c. pay, &c. unto the sd (M) his exs, &c. int for the sd sum of £ — or so much thereof as shall remain due at the end of evy yr to be computed from the day of the date of these prests after the rate of £ — *per cent. per annum* by yrly paymts the first of the sd paymts to begin and be made on the day of next And also at the sevl times before mentd for paymt of the int as afd shall, &c. pay, &c. unto, &c. the sum of £ — *per cent. per ann.* of the principal which remained due at the beginning of the yr in which evy such paymt is to be made in case the sd (R or, &c.) shall be resident upon the sd living for the time mentd in and according to the true intent and meaning of the sd Act And in case the sd (R or, &c.) shall not reside upon the sd living during the time mentd in and according to, &c. of the sd Act he shall pay the sd sum of £ — *per cent. per ann.* of the sd principal money by such yrly paymts as afd instead of the sd sum of £ — And shall, &c. continue such respive payments of the sd int and on acct of the sd principal money so long as he shall continue rector (or 'vicar,' &c. of the sd parish and parish church unless all the principal money and int for the same shall be sooner pd and discharged *Provided always* and these prests are upon this express condon that if the sd (R or, &c.) and his successors shall well, &c. pay, &c. the sd principal money and int for the same in manner and at the times afd according to the true intent and meaning of the sd Act and of these prests and also all costs and chas which shall have been occasioned by the non-paymt thereof then these prests and evy thing hereincontd shall cease and be void *Provided also* that it shall and may be lful for the sd (R or, &c.) and his successors peaceably and quietly to hold occupy possess and enjoy all and singr the sd glebe lds tithes rents moduses compositions for tithes stipends fees gratuities and or. emoluments and prfts whatsr arising and to arise for or in respect of the sd living until deft shall be made by him or them resply in the paymt of the int

Benefice.

and principal or some pt thereof at the times and in the manner afd *In Witness, &c.*

Mortgage of Tolls.

This Indre made, &c. Betn (trustees) trustees named and appted in and by an Act of Parlt passed, &c. intituled, &c. of the one pt and (mortgagee) of, &c. of the or. pt Whas certain tolls or duties are granted by the sd Act for repairing and keeping the roads leading, &c. the trustees therein-named are empowered to take up at int any sum not exceeding in the whole the sum of £ — And whas the sd (T) in pursuance of the sd power have agrd with the sd (M) for the loan of £ — on the secty of the sd tolls Now this Indre Witnesseth That in conson of the sum of £ — in hand, &c. pd by the sd (M) to (treasurer) treasurer of the sd (T) with the consent of the sd (T) testified by their respive exons of these prests upon trust to pay and apply the same in the repair of the sd highways the rect of which sd sum of £ — the sd (treasurer) doth hby acknge, &c. They the sd (T) Have bargd sold assd transferred and set over and by, &c. Doth bargain, &c. unto the sd (M) his exs ads and ass All and evy the tolls duties and sums of money granted and allowed to be taken or made paye by the sd in pt recited Act with all and evy the ways means powers authties and remedies for raising collecting and receiving the same To Have Hold recee and take unto the sd (M) his exs ads and ass the sd tolls, &c. to and for his and their own use and bent for and during the term of yrs Provided always and these prests are upon this expss condon that if the sd (T) their treasurer or receiver of the sd tolls or duties for the time being do and shall well, &c. pay, &c. unto the sd (M) the sd, &c. Then this assnmt, &c. shall cease, &c. Provided also that until deft shall be made in payment of, &c. it shall be lful for the sd (T) their treasurer, &c. quietly to recee and take the sd tolls, &c. hby granted as afd and to pay and apply the same to the purps afd In Witness, &c.

Assignment of a Policy of Insurance by way of Collateral Security.

Obs. As to life insurances, see *Assignments*, vol. i. p. 184.

Recital of
policy.

This Indre made, &c. Betn (assignor) of, &c. of the one pt and (assignee) of, &c. of the or. pt Whas by a certain deed poll or instrmt in writing under the hands and

seals of three of the directors of Company for the
 Insurance of Lives numbered and bearing date, *Policy of*
 &c. the sd (*assignor*) hath insured his life in the sum of *Insurance*
 £ — And whas the sd (*mortgagor*) being indebted *Agreement*
 unto the sd (*mortgagee*) in the sum of £ — it hath been *to assign*
 agrd by and betn the sd pties that for the more effectually *policy.*
 securing the repayment of the sd sum the sd policy
 of insurance shd be assd to the sd (*assignee*) in manner
 hnafr mentd Now this Indre Witnesseth That in con-
 sou of the sum of £ — so due and owing to the sd
 (*assignee*) as the sd (*assignor*) doth hby acknge He the
 sd (*assignor*) Hath bargd sold and assd and by, &c.
 Doth bargain, &c. unto the sd (*mortgagee*) his exs ads
 and ass All that the sd deed poll or instrmt in writing
 And all sums of money recoverable or to be recd
 upon or by virtue of the sd policy of insurance And
 the full bent and advantage thof And all the este right
 title int property bent claim and demand whatsr both
 at law and in equity of him the sd (*mortgagor*) of in to
 and out of the same To Have hold rece perceive and *Habendum.*
 take the sd Policy of Insurance and all sums of money,
 &c. and all or. the preses unto the sd (*assignee*) his exs
 ads and ass henceforth for his and their own proper
 use and bent In Trust nevss as a pledge or secty to
 him the sd (*mortgagee*) his exs ads and ass for the re-
 payment to him or them of the sd sum of £ — so due
 and owing to him the sd (*mortgagee*) as afd with int for
 the same after the rate and at the day or time in or by
 the proviso hnafr expssd and contd for the paymt thof
 that is to say *Provided always* and it is hby decld and
 agrd by and betn the pties hereto that if the sd (*assignor*)
 do and shall well and truly pay the sd sum of £ — and
 int for the same after the rate of £ — for every 100l.
 by the yr at on the day of next ensuing
 witht any deduction or abatement on any acct whatsr
 Then this present assignment and evy article clause
 matter or thing herein contd shall be absolutely void to
 all intents and purps whatsr *Provided also* that in case
 deft shall be made in the payment of the sd principal
 and int at the day and in manner hnbefe appted for the
 payment thof And the sd sum of £ — or any pt thof
 and the int thof shall remain due and unpaid at the
 time of the dece of the sd (*assignor*) it shall and may
 be ful for the sd (*assignee*) his exs, &c. to recover and
 rece all and evy the sum or sums of money paye or re-
 coverable upon or by virtue of the sd policy of insurance
 And shall and do thereout pay and indemnify himself
 and themselves so much of the sd sum of £ — and int
 as shall then remain due and owing to him or them

Policy of Insurance togr with all costs chas and exps which he or they shall pay bear or be put unto in or about the recovery and rect thof and shall and do pay the surplus of such mos unto the exs ads or ass of the sd (*assignor*) And for the better and more effectually enabling him the (*assignee*) his exs, &c. to recover and rece the mos and preses hnbefe assd or orwise assured or intended so to be he the sd (*assignor*) hath made constituted, &c. (Power of Attorney, vol. i. p. 145) And the sd (*assignor*) for himself his hrs exs ads and ass doth hby covt, &c. with, &c. the sd (*assignee*) his exs ads and ass in manner following that is to say That he the sd (*assignor*) his exs ads or ass shall and will, &c. (pay principal and interest) And also that he the sd (*assignor*) hath not at any time heretofore made done exted or willingly suffered or permitted any act matter or thing whby or by means whereof the sd policy of insurance hby assd or orwise assured or intended so to be shall or may be avoided charged or incumbered in any way whatsr or whby the sd (*assignee*) his exs ads or ass shall or may be hindered or prevented from recovering or receiving all sums of money to be recovered or received upon or by virtue of the, &c. And that he the sd (*assignor*) shall and will at his own costs and chas from time to time and at all times during the continuance of this secty pay, &c. all the premiums or sums of money payable upon the sd policy of insurance so that the life of the sd (*assignor*) shall and may be henceforth well and regularly kept insured in the sd sum of £ — at the least so long as the sd principal or any pt thof and the int thereof shall remain due and owing to the sd (*assignee*) his exs, &c. And shall and will at all times when thereunto required by the sd (*assignee*) his exs, &c. produce and show unto him or them the rects or vouchers for the sevl paymts made for such insurance And shall and will in all things conform to the rules customs and regulations of the sd Company for the insurance of lives so far as the same relate to the afd policy of insurance To the intent that the same may be preserved in full force and the sd (*assignee*) his exs ads or ass may be enabled to rece the full bent thereof And furr that the sd (*assignor*) hath in himself full power and lful authty to transfer and assign the sd policy of insurance and all sums of money and or. the preses hby assd or intended so to be unto the sd (*assignee*) his exs, &c. in manner afd according to the true intent and meaning of these prests And moreover that he the sd (*assignor*) his exs ads and ass shall and will at all times hrafr so long as the sd principal, &c. shal

Covenants from assignor.

To pay principal and interest.

Done no act to incumber.

To keep up policy.

Power to assign.

Further assurance.

remain due, &c. at the reasonable request of the sd (assignee) his, &c. but at the costs and chas of the sd (assignor) make do, &c. such or. lful acts, &c. for the more perfectly, &c. assigning, &c. the sd policy, &c. as by the sd (assignee) his exs ads or ass or his or their counsel shall be reasonably advised or required *Provided nevrs* and it is hby agrd and decl'd that in case the sd (assignor) his exs or ads shall at any time so long as the sd principal, &c. shall remain due, &c. neglect or discontinue to pay the annual sums of money paye upon or in respect of the sd policy of insurance for the purpe of keeping the same on foot according to the customs and usage of the sd Compy for, &c. Then it shall and may be lful for the sd (assignee) his exs ads and ass to advance and pay all such sums of money as by reason of such neglect or deflt shall be necessary to pay for the purpe of keeping on foot the sd policy, &c. which sd sums of money so to be advanced for the purps afd (to the amount of £ — but no more) togr with int for the same after the rate afd from the respive times of advancing and paying the same shall be repd to the sd (assignee) his exs, &c. by with and out of the sd sums of money which shall be recovered and received upon the dece of the sd (assignor) as afd in case the sd principal, &c. shall not be previously repd to the sd (assignee) *And lastly* the sd (assignor) for himself, &c. doth, &c. covt, &c. promise and agree with and to the sd (assignee) his exs, &c. that he the sd (assignor) shall and will repay all such sums of money so advanced by the sd (assignee) his exs ads or ass for the purps afd with int for the same as afd *In Witness, &c.*

Equitable Mortgage.

Obs. A mere deposit of title deeds upon an advance of money, without a word passing, gives an equitable lien, *ex parte Langston*, 17 Ves. 227; *ex parte Kensington*, 2 Ves. & B. 83; but it is obviously prudent to have some writing to explain the intentions of the parties in the form of an Agreement (see *Agreement for a Mortgage*, vol. i. p. 40,) or in the simple form of a Memorandum, as underneath, to which are sometimes added an acknowledgement and a schedule (see vol. i. p. 2.)

Memorandum accompanying a Deposit of Title Deeds by way of Pledge.

Be it remembered That on the day of 18
the title deeds relating to certain messes lds, &c. situated
at in the county of as enumerated and specified
in the schedule hereunder written were delivered by
(mortgagor) of, &c. to (mortgagee) of, &c. in pledge to

Further Charge. secure to the sd (*mortgagee*) his exs ads and ass the repayment of the sum of £ — this day lent and advanced by the sd (*mortgagee*) to the sd (*mortgagor*) and int for the same sum after the rate of £ — for every 100l. by the year As Witness the hands of the sd parties the day and yr first above-written

Witness A B

(*Mortgagor*)

(*Mortgagee*)

Another in the form of a Schedule.

A Schedule of the several deeds and writings relating to a certain messe, &c. situate at in the county of delivered by (mortgagor) therein described to (mortgagee) of, &c. as a security for the repayment by the sd (mortgagor) his exs, &c. to the sd (mortgagee) his exs of the sum of £ — with int at £ — per cent. per annum (add schedule, see vol. i. p. 2)

Witness A B

(*Mortgagor*)

(*Mortgagee*)

Further Charge on Mortgaged Premises by Indorsement.

Stamp.

Obs. Where no further sum is added to the principal money secured, a stamp of 1l. 15s. only; in all other cases the same as in an original mortgage.

To all, &c. Whas the within-named (mortgagee) hath advanced and lent unto the within-named (mortgagor) the furr sum of £ — as he the sd (mortgagor) doth hby acknge, &c. And thereupon the sd (mortgagor) hath entered into a bond or obligation of even date with these prests to the sd (mortgagee) in the penal sum of £ — with a condon thereunder-written for making void the same upon payment by the sd (mortgagor) his hrs, &c. unto the sd (mortgagee) his exs, &c. of the sum of £ — with int for the same after the rate, &c. on the day, &c. Now know ye That for the better securing unto the sd. (mortgagee) his exs, &c. the paymt of the sd furr sum of £ — and the int thereof on the sd, &c. according to the condon of the sd in pt recited bond he the sd (mortgagor) doth hby for himself his hrs exs and ads covt grant declare and agree with and to the sd (mortgagee) his exs ads and ass That the sd messes, &c. and all and singr or. the preses within-mentd to be demised (a) or mtgd to the sd (mortgagee) his exs, &c. with their and evy of their appts and evy pt and pcl thereof shall stand charged and

(a) If a mortgage in fee, say, 'to be conveyed and reld unto the sd (*mortgagee*) his hrs and ass.'

chargeable with and be and continue a security unto him the sd (*mortgagee*) his exs, &c. as well for the payment of the principal sums of £ — within-mentd and the int thereof as also for the paymt of the sd furr sum of £ — now lent and advanced as afd and the int thof and that the sd preses or any pt thereof shall not be redeemed or redeemable either at law or in equity until not only the sum of £ — before lent and the int thereon but also the sd sum of £ — now lent and int shall be fully pd and satisfied unto the sd (*mortgagee*) his exs, &c. And that all the provisions in the within-written indre contd concerning the insurance agrd to be made or effected by the sd (*mortgagor*) his hrs, &c. or which may be made by the sd (*mortgagee*) his exs, &c. shall extend and be applicable to the sd sum of £ — now lent and int thereon as well as to the within-written sum of £ — and int thereon And the sd (*mortgagor*) for himself, &c. (covenant that he will pay as well the sd sum of £ — now lent as the within-written principal, &c.) *In Witness, &c.*

Transfer.

Transfer of a Mortgage by Demise. (Variations where it is a Mortgage in Fee.

Obs. 1. It is most usual in transfers of mortgages to assign the debt (see *Assignments*, vol. i. p. 179;) but by the assignment and delivery of the security, the debt necessarily passes as incident to it; *Jones v. Gibbon*, 11 Ves. 411.

2. The mortgagor or his heir ought, if possible, to join in the transfer; but if he do not, notice at least should be given to him, otherwise payment by him to the mortgagee will be good against the assignee.

3. As to the stamp on transfers of mortgages, see *Assignments*, vol. i. p. 179, Obs. 2.

This Indre made, &c. Betn (mortgagor) of, &c. of the first pt (transferor) of, &c. of the second pt and (transferee) of, &c. of the third pt Whas by indre bearing date, &c. and made or expssd to be made betn the sd (M) of the one pt and the sd (T) of the or. pt It (a) is witnessed that in conson of the sum of £ — to the sd (M) by the sd (T) pd the sd (M) did grant bargain

(a) If it be by apptmt and demise, say, 'All that messe or tent, &c. and hereds hnastr parlarly described were for the consons there mentd apptd demised and assured unto the sd (T) for a term of, &c.' *as above*. If it be a mortgage in fee, say, 'Whas by indres of lease and release (or, 'by indre of lease and indre of apptmt and rele') bearing date the days of resply The indre of rele being made, &c. betn, &c. All and singr the lds hereds and preses linastr described with the appts were conveyed reld and assured (or, 'apptd and reld') by the sd (*mortgagor*) unto the sd (*mortgagee*) his hrs and ass for ever subject nevss, &c.

Transfer. sell and demise unto the sd (T) his exs ads and ass *All that, &c. To Hold* the same with the appts from the day next before the day of the date of the now reciting indre for the term of yrs thence next ensuing at the rent of a peppercorn if demanded subject nevss to a provo for redemption on payment by the sd (M) his hrs exs, &c. to the sd (T) his exs ads or ass the sum of £ — and int after the rate of £ — per cent. per annum on the day of next ensuing *And whas* deft was made by the sd (mortgagor) in paymt of the sd principal sum and int on the day mentd in the sd provo for redemption *And whas* the sd principal sum of £ — now remains due and owing to the sd (T) upon and by virtue of the sd hnbefe recited mtge secty but all int for the same hath been pd and satisfied up to the day of *And whas* the sd (T) having occasion for the sd principal sum of £ — hath applied to and requested the sd (transferee) to advance and pay him the same which he hath consented to do on having a transfer of the sd in pt recited indre made to him, in manner hnaft expssd *Now this Indre Witnesseth* That in conson of the sum of £ — at or before the exon of these prests well, &c. by the sd (transferee) to the sd (T) pd at the request and by the direction of the sd (M) testified by his exting these prests (in full satisfaction and discharge of all mos now due and owing to the sd (T) upon and by virtue of the hnbefe recited indre of mtge) the rect of which sum the sd (T) doth hby acknge and of and from the same doth acquit rele and discharge as well the sd (transferee) as also the sd (M) his hrs exs and ads He the sd (T) at the request and by the direction of the sd (M) testified as afd Hath (a)

as above. If there have been a previous transfer, say, 'Whas by indres of lease and rele dated, &c. and made betn (mortgagee) therein described of the first pt (mortgagor) therein, &c. of the second pt and (transferee) of, &c. of the third pt *Reciting* that the sd sum of £ — was then due and that a transfer of the sd secty to the sd (T) had then been agrd on It is witnessed that in conson of the sd sum of £ — to the sd (mortgagee) pd by the sd (T) with the privity of the sd (mortgagor) he the sd (mortgagee) did assign and transfer the sd principal mos and int secured by the sd in pt recited indre of mtge unto the sd (T) his exs ads and ass *And also* for the conson afd did convey and rele unto the sd (T) his hrs and ass the messe, &c. comprised in the sd in pt recited indre of mtge *To Hold* the same subject to such equity of redemption as the same were liable to by virtue of the afd indre of mtge.'

(a) If the debt is to be assigned, it may be done under the same testatum where the mortgage is by demise, see *Assignments*, vol. i. p. 179; but if it be a mortgage in fee, then by a separate testatum. If it be a mortgage in fee, say, 'Hath bargd sold and reld and by, &c. Doth bargain, &c. unto the sd (transferee) his hrs and ass *All, &c.* (in the actual posson of the sd (transferee) being by virtue, &c.' see *Releases*, Gen. Prec.)

bargained sold and assd and by, &c. Doth bargain sell and assign unto the sd (*transferee*) his exs ads and ass *All* and singr the hereds comprised in the sd hnbeft recited indre of mtge and which are therein expsd to be demised (a) unto the sd (T) his exs ads and ass And also all deeds, &c. *To Have and to Hold* the sd hereds and all and singr or. the preses hnbeft described and intended to be hby assd (b) unto the sd (*transferee*) his exs ads and ass henceforth for and during all the residue and remr now to come and unexpired of the sd term of yrs thereon and for all or. the este term and int of the sd (*transferor*) *Subject nevss* to such right of redemption as the same hereds and preses are now subject or liable to on paymt of the sd principal sum and int now due or to grow due thereon And the sd (T) for himself his hrs exs ads and ass doth hby covt, &c. with the sd (*transferee*) his exs ads and ass that he the sd (T) hath not heretofore, &c. (done any act to encumber) And the sd (M) for himself, &c. doth covt, &c. with the sd (*transferee*) his hrs and ass in manner, &c. That he the sd (M) and the sd (T) now are or one of them is lfully rightfully and absolutely seised of, &c. (see *Releases, Gen. Prec.*) And that the sd (M) and (T) now have in themselves or one of them hath in himself (good right to convey) And that in case deflt shall be made in paymt, &c. it shall be, &c. lful, &c. (quietly to enter, &c.) And that free, &c. And moreover that the sd (M) and (T) and each of them and each of their hrs, &c. and evy or. psn, &c. shall, &c. make, &c. (acts for further assurance) *In Witness, &c.*

Transfer.

Transfer of a Mortgage to two Persons Advancing Money in certain Proportions, with Trusts for Sale.

Obs. As to the stamp on a transfer where there is a further sum advanced, see *Assignments*, Obs. 2, vol. i. p. 179. Stamp.

This Indre made, &c. Betn (mortgagee) of, &c. of the first pt (mortgagor) of, &c. of the second pt A B of, &c. and C D of, &c. of the third pt and (trustee) of, &c. a trustee named by and on behalf of the sd A B and C D of the fourth pt Whas by indre, &c. (recite a mortgage for securing £ — and interest to mortgagee) And whas the sd sum of £ — was not pd according to the sd provo for paymt thereof but still remains due and owing upon or by virtue of the sd recited secty all int for the same to the duy of the date hereof being pd and satisfied

Recitals.

(b) 'To be reld unto the sd (T) his hrs and ass And also, &c.'

(c) 'Hby reld or orwise assured or intended so to be unto the sd (*transferee*) his hrs and ass.'

- Transfer.** *And whas* the sd (*mortgagee*) having occasion for the sd sum of £ — the sd A B and C D have upon the application of the sd (*mortgagor*) agrd to advance and lend him the same in the proportions following (to wit) the sum of £ — pt thof by the sd A B and the sum of £ — the residue thof by the sd C D upon having the sd messes or tents lds hereds and preses hnbefe described and hrafr mentd to be hby reld made a secty for the repaymt of the same with int in the manner hnafr mentd *Now this Indre Witnesseth* That in conson of the sum of £ — of, &c. to the sd (*mortgagee*) in hand, &c. by the sd A B upon or before, &c. at the request and by the direction of the sd (*mortgagor*) testified, &c. And also in conson of the sum of £ — of like, &c. to the sd (*mortgagee*) by the sd C D at the like request of the sd (*mortgagor*) which sd sums of £ — and £ — make togr the sum of £ — and are in full satisfaction and discharge of all principal mos and int now due and owing to the sd (*mortgagee*) upon or by virtue of the sd in pt recited secty And also in conson of the further sum of £ — of like, &c. to the sd (*mortgagor*) by the sd C D and also of 5s. of, &c. by the sd (T) to the sd (*mortgagor*) and (*mortgagee*) the rect of which sd sevl sums they the sd (*mortgagee*) and (*mortgagor*) do hby resply acknge, &c. He the sd (*mortgagee*) at the request and by the direction of the sd (*mortgagor*) testified, &c. *Hath* bargained sold and reld and by, &c. And the sd (*mortgagor*) at the nomination and by the apptmt of the sd A B and C D *Hath* granted bargd sold reld ratified and confirmed and by, &c. *Doth* grant, &c. unto the sd (T) his hrs and ass *All* and singr the sd messes, &c. and preses hnbefe described and which in and by the sd indres of lease and rele were conveyed and assured as hnbefe mentd with the appts and the revu, &c. and all the este, &c. of them the sd (*mortgagor*) and (*mortgagee*) into and out of the same All which same messes or tents pieces and pcls of ld, &c. are in the actual posson of the sd (T) by virtue of (see *Releases, Gen. Prec.*) &c. *To Have and to Hold* the sd messes, &c. and all and singr or. the preses mentd or intended to be hby released with the appts unto the sd (T) his hrs and ass to the only proper use and behoof of the sd (T) his hrs and ass for ever *Upon the Trusts* nevss and to and for the intents and purps hnafr mentd expsd and decl'd of and concerning the same (here add declaration of trusts, &c. see *Mortgage with Trusts for Sale*) *Provided always* and it is hby decl'd, &c. that if the sd (*mortgagor*) his hrs exs or ads shall, &c. pay, &c. unto the sd A B his exs ads or
- Testatun.**
- Release of premises to the new mortgagees**
- Habendum.**

ass the sum of £ — of, &c. and unto the sd C D the *Transfer.*
 sum of £ — of like, &c. upon the day of now
 next ensuing witht any deduction or abatement for or
 in respect of any taxes, &c. Then and in that case and
 at any time thenceforth he the sd (T) his hrs or ass
 shall, &c. at the request costs and chas of the sd (*mort-*
gagor) convey and assure the same messe, &c. and
 preses with the appts unto and to the use of the sd
 (*mortgagor*) his hrs and ass or as he or they shall direct
 or appt free from all incumbrs in the mean time to be
 made done or committed by the sd (T) his hrs or ass,
 &c. or by any psn or psns claiming or to claim by from
 under or in trust for him or them And the sd. (*mort-*
gagor) for himself, &c. doth, &c. covt, &c. with the sd
 A B his exs, &c. that he, &c. (will pay the sum ad-
 vanced by him) And the sd (*mortgagor*) for himself,
 &c. (covenant with C D to pay the sum advanced
 by him) And the sd (*mortgagor*) for himself, &c.
 covt, &c. with the sd (T) his hrs and ass in man-
 ner, &c. That he the sd (*mortgagor*) and (*mortgagee*)
 are or one of them is (lfully seised and have or hath
 good right to convey) And that the sd messes, &c. and
 preses hby reld or orwise assured or intended so to be
 with the appts shall and lfully may from time to time
 and at all times hrafr remain continue and be unto and
 to the use of the sd (T) his hrs and ass upon the trusts
 and to and for the intents and purps hnbefe mentd
 expssd and decld of and concerning the same and shall
 and may be accordingly peaceably and quietly held and
 enjoyed witht the lful let suit denial, &c. of from or by
 the sd (*mortgagor*) or (*mortgdgee*) or any or. psn or
 psns whomsr And that free, &c. And moreover that the
 sd (*mortgagor*) and (*mortgagee*), &c. shall and will, &c.
 make, &c. (acts for further assurance) And furr that
 he the sd (*mortgagor*) and his hrs shall and will if there-
 unto required join in any such sale or sales afd and exte
 all the sevl conveyances of the sd messe, &c. to the
 purchaser or purchasers thof and enter into all usual and
 reasonable covts and do any or. acts for the confirma-
 tion of such sale as by the sd (T) his, &c. or his or
 their counsel in the law shall be advised or required
Nevertheless it is hby agrd and decld that the joining of
 the sd (*mortgagor*) or his hrs in any such sale or con-
 veyance shall in no wise be deemed or considered as
 essential or necessary to perfect the title of the purchaser
 or purchasers of the same messe, &c. the same being
 only intended for furr satisfaction of such purchaser

In Witness, &c.

*Reconvey-
ance.**Notice of Transfer of Mortgage.*

Obs. As to the necessity of this notice, see *Transfer of a Mortgage by Demise*, Obs. 2.

Sir

I hby give you notice that I have by indre bearing date the day of last taken an assignment (or 'conveyance') of the preses comprised in an indre bearing date the day of and made betn you (*mortgagor*) of the one pt and (*mortgagee*) therein described of the or. pt purporting to be a mtge made by you for securing the paymt of the sum of £ — and int for which assignment (or 'conveyance') I have pd the sum of £ — I therefore hby require you to pay the same sum being the sd principal sum and a year's int thereon to me my exs or ads instead of to the sd (*mortgagee*) his hrs exs or ads

To Mr (*mortgagor*) of, &c. (*Assignee*)

Reconveyance of a Mortgaged Estate from the Heir at Law, and Executors of a deceased Mortgagee, to a Mortgagor.

Obs. As to the stamp for the reconveyance of mortgages, see *Assignments*, vol. i. p. 179.

Recitals.

Death and
will of
mortgagee.

This Indre made, &c. Betn (heir) heir at law of (mortgagee) late of, &c. decd of the first pt (executors) of, &c. executors named in the last will and testament of the sd (M) of the second pt and (mortgagor) of, &c. of the third pt Whas (recite mortgage in fee (a) from mortgagor to mortgagee) And whas the sd (mortgagee) departed this life in the yr, &c. leaving the sd (H) his eldest son and hr him surviving having duly made and exted his last will and testament in writing bearing date, &c. but without having by his last will or orwise disposed of the legal este then vested in him as (mortgagee) as afd And whas the sd (E) duly proved the sd will in the Ct of And whas the sd principal sum of £ — is still due and owing to the sd (E) as executors as afd but all int upon or in respect of the same hath been duly pd up to the day of the date of these prests And whas the sd (mortgagor) hath applied to and requested the sd (E) to convey to him the sd (mortgagor) all the este and int of the sd (E) upon or by virtue of the secty so made to the sd (mortgagee) decd and the sd

(a) For the variations, where it is the reconveyance of a mortgage by demise, see *Transfer of a Mortgage by Demise*.

(E) have consented so to do *Now this Indre Witnesseth* That in conson of the sum of £ — of, &c. to the sd (E) as exs of the sd (mortgagee) in hand, &c. by the sd (mortgagor) at, &c. pd in full for all principal monies due and owing to the exs as afd the rect whereof they the sd (E) do hby acknge and of and from the same do acquit rele and for ever dischas the sd (M) and also in conson of 5s. of, &c. to the sd (H) in, &c. by the sd (mortgagor) at, &c. pd the rect, &c. He the sd (H) at the request and by the direction of the sd (E) testified, &c. *Hath* bargd sold and reld and by, &c. And the sd (E) *Have* and every of them *Hath* remised reld and for ever quitted claim and by, &c. *Do* and, &c. *Doth* unto the sd (mortgagor) (in his actual posson, &c. see *Release, Gen. Prec.*) And to his hrs and ass *All those*, &c. And all and singr or. the hereditcs comprised in the sd in pt recited indre And all houses, &c. And the revn, &c. And all the este of them the sd (H) and (E) of in, &c. *To Have and to Hold* the sd messes, &c. and all and singr or. the preses hby reld or orwise assured or intended so to be with their respive rights members and apts unto the sd (mortgagor) his hrs and ass for ever freed and absolutely discharged of and from the principal sum of £ — and all int upon or in respect of the same And the sd (H) for himself, &c. doth hby covt, &c. (that he hath not incumbered) And each of them the sd (E) for himself and his own hrs exs and ads acts and deeds only doth hby covt, &c. (that they have done no act to encumber) *In Witness*, &c.

Testatum.

Habendum.

NOMINATIONS.

Obs. For other forms of nomination, see *Appointments*, vol. i. p. 98; *Arbitration*, vol. i. p. 120; *Fines and Recoveries*, vol. ii. and *Powers of Attorney*, vol. ii.

Nomination of a Parochial Curate.

To the Right Revd Lord Bishop of
I, A B rector of in the county of and diocese
of Do hby nominate the Revd C D to perform the
office of a curate in my parish church of And do
promise to allow him the yrly stipend (a) of £ — per
ann and the use of the rectory-house garden and offices

(a) As to the stipend, see 57 G. III. c. 99, s. 52, *et seq.*

NOMINATIONS.

And pursuant to the Act of Parlt I do hby state that the sd Rev. C D purposes to reside in my sd rectory-house (or ' vicarage') and that the sd Rev C D does not serve any or. church as curate or incumbent and has not any or. ecclesiastical preferment and does not hold any donative perpetual curacy or parochial chapelry and does not officiate in any or. church or chapel and the gross annual value of the sd rectory is £ —

Witness my hand this day of in the yr of
our Lord one thousand eight hundred and

A B (Incumbent)

(add address.)

Nomination to an Augmented Chapelry or Curacy.

To the Right Reverend Father in God J. Lord Bishop
of the Dean and Chapter of the Cathedral Church
of E send greeting

Whas the curacy of the chapel of in the parish
of B in the city and diocese of E is augmented or
shortly intended to be augmented by the Governors of
the Bounty of Queen Anne for the augmentation of the
maintenance of the poor clergy by reason whereof
it is requisite that a curate shd be duly nominated and
licensed to serve the sd cure pursuant to an Act of
Parlt in that case made and provided *Now* we the sd
Dean and Chapter do hby nominate the Rev A B clerk
(the psn employed by us in serving the sd cure) to be
the curate of the sd chapel of and we do humbly
pray your lordship to grant your licence to the sd Rev
A B to serve the sd cure and to perform all divine
offices there accordingly *In Witness, &c.*

*A Donation or Nomination to a Church or Chapel that
is donative and exempt from Episcopal Jurisdiction.*

To all Christian people to whom these prests shall
come A B of C in the county of N, esq lord of the
manor of E in the county afd sendeth greeting *Whas*
the church or chapel of T in the county afd is now void
by the natural death of T S the last incumbent therein
and doth of right belong to my gift or donation *Now
know ye* that I the sd A B have not only given and
granted the sd church with all its rights and apts unto
my beloved in Christ J S clerk M.A. of whose prob-
ity and learning I am well satisfied but also by virtue

of these presents do induct him the sd J S into the corporeal posson of the sd church with its rights and appts *In Witness, &c.*

NOTICES.

§ 1. Notice, is the making something known that a man was, or might be ignorant of before, and the party who gives the same shall have the benefit thereof; Co. Litt. 309, a.

2. Notice is required to be given in many cases by law, or by stipulation in deeds, to justify proceedings where any thing is to be done or demanded; as in the case of appeals and the like; but none is bound to give to another person notice of that which such other may otherwise inform himself, or ought to take notice of, except such notice is directed by Act of Parliament, or the agreement of the parties. As to notices to auctioneers, see *Conditions of Sale*, vol. i. p. 353; in respect to partnerships, see *Copartnership*, vol. i. p. 45; in respect to mortgages, see *Mortgages*, vol. ii. p. 284; and also *subsequent Forms*; in respect to tenancies, see *subsequent Forms*.

3. Notices, are either in deed, when they are made by word or in writing; or they are in law, when they are implied in law; which distinction was formerly observed in respect to attornments, Litt. s. 551, 558; Co. Litt. 309, a. 312, b. A similar distinction has been made in equity, between actual notice and constructive notice, on the doctrine of which, see Sugd. V. and P. c. 17; and for what is to be deemed notice in case of bankruptcy, see 6 G. IV. c. 16, s. 83, *et seq.*

Notice of reserved Bidding.

Obs. For other forms, see *Conditions of Sale*, vol. i. p. 353.

Mr. Auctioneer

We A B of, &c. and C D of, &c. the owners of the within-named messes tents and hereds do hby nominate F W and R N both of, &c. atties and co-partners jtly or each of them separately for us and in our names places and steads to make one reserved bidding for the whole of the same preses or for each lot in case the same shall be put up in lots at the time of sale for the purpe of avoiding the auction duty in respect thereof in case the same be not sold by auction pursuant to the within advertisement beyond certain prices fixed upon betn us and the sd F W and R N in the way of reserved biddings for us and for our use only *As Witness, &c.*

*As to
Mort-
gages.*

Notice of Intention to repay Mortgage Money.

Sir

Please to take notice that I shall at the end of six calendar months from the date hereof being the day of now next ensuing pay unto you your exs ads or ass the sum of £ — due and owing to you from me on mortgage of certain estes comprised in an indre of mtge made by me to you bearing date, &c. *Witness* my hand
(mortgagor)

To Mr. (mortgagee) of, &c.

Notice from Trustees to Mortgagor to pay Mortgage-Money.

Obs. As to the necessity of trustees with power of sale giving notice to mortgagor, see *Mortgages*, Pref. § 10.

We do hby give you notice to pay to us on the day of next the principal sum of £ — and int upon and by virtue of a certain indre of assmt by way of mtge bearing date on or about the day of made or expssd to be made betn (mortgagor) of, &c. of the first pt (mortgagee) of, &c. of the second pt and us trustees of the sd (mortgagor) of the third pt And we do hby inform you that if deft shall be made in the paymt of the sd principal sum and int we shall after the sd day of next ensuing proceed to make sale and disposition of all or some pt of the pieces or pcls of grd messes or tents and erections assigned or demised by the sd indre in pursuance of the power enabling us to make sale or or. disposition thof *As Witness*

To Mr. A B

Another, from Mortgagee.

I do hby give you notice that unless the principal and int (and 'costs if any') due and owing to me (mortgagee) by virtue of a certain indre, &c. be pd at the expiration of six mths from the date hereof I shall immly proceed to a sale of the messe and hereds in the sd indre comprised in pursuance of the power thby vested in me
Signed (mortgagee)

To Mr. (mortgagor) of, &c.

Another to Assignees of a Bankrupt.

To Messrs. A B and B C assignees of the estate and effects of E F a bankrupt

I hby give you and each of you notice to pay to me

the undersigned G H exr of the last will and testmt of A L of, &c. decd at the office of Mr. N N solicitor on the day of next the principal sum of £ — which is now due and owing from you as assignees as afd to me as exr as afd upon and virtue of certain indres of lease and rele bearg date resply the and days, &c. by way of mtge togr with all int that shall appear to be due thereon Dated, &c.

*As to
Mort-
gages.*

Notice to Lessee to pay Rent to Mortgagee.

Obs. Where there is a tenant in possession by a lease prior to the mortgage, the mortgagee may at any time give him notice to pay the rent to him, and he may distrain for all the rent which is due at the time of the notice, and also for all that accrues due afterwards; *Moss v. Gallimore*, Dougl. 266.

Sir

Take notice that by indres of lease and rele bearing date resply the and days of the indre of rele being made betn (*mortgagor*) of, &c. your landlord of the one pt and me (*mortgagee*) of, &c. of the or. pt the messe or tent and preses now in your occupation were conveyed to me my hrs and ass in mtge for securing the repaymt of the sum of £ — and int and which sd sum with a considerable arrear of int thereon is still due and unpd I do therefore give you notice not to pay any rent due or hereafter to become due from you for the sd messe or tent and preses to the sd (*mortgagor*) or to any or. psn or psns on his behalf but to pay the same rent and arrears of rent to me or my atty or to such or. psn or psns as I shall authorize to rece the same Dated the day of

To Mr. (lessee) of, &c.

Yours, &c.

(mortgagee)

Notice by Attorney of a Mortgagee, not to pay Rent to Mortgagor.

Take notice that by indres of lease and rele bearing date, &c. the rele being made betn, &c. the messes, &c. now in your occupation situate, &c. were amongst or. things conveyed and assured to the sd A B for the better securing the paymt of the sum of £ — and int by the sd C D to the sd E F at a certain day in the sd indre of rele mentd and now past and which with a considerable arrear of int thereon is still due and unpd to the sd E F, I do therefore as the atty of the sd E F give you notice not to pay any rent now due or to become due from you for the sd messe, &c. to the sd C D

Between or to any other psn or psns than to the sd E F or to
Landlord me as his atty or to such or. psn or psns as shall be
and duly authorized to rece the same
Tenant. Mr. A B

Notices to Quit.

Obs. 1. Where a lease is determinable on a certain event, or at a particular period, no notice to quit is necessary, because both parties are equally apprized of the determination of the term; *Right v. Darby*, 1 T. R. 162; so a demise for twelve months' certain, and six months' notice afterwards, may be terminated at the end of the year by a six months' previous notice; *Thompson v. Maberley*, 2 Campb. 574; but a demise not for one year only, but from year to year, enures as a demise for two years at least; *Denn v. Cartwright*; and it is not necessary, in a notice to quit, to insert the words 'or pay double rent,' in order to entitle the landlord, under the 4 G. II. c. 28, to recover double rent; *Messenger v. Armstrong*, 1 T. R. 53.

Or from
 month to
 month, &c.

2. In the case of tenancies from year to year, half a year's notice to quit is absolutely necessary before an ejectment can be brought, and such notice must expire at the time of the year when the tenancy commences; *Flower v. Darby*, 1 T. R. 159. When parties enter between the usual quarter days, the notice must expire on the day of entry; *Kemp v. Derrett*, 3 Campb. 510. So if parties agree that the tenancy shall be determinable at a quarter's notice, still the notice, in the absence of all agreement to the contrary, must expire when the tenancy expires; *Pitcher v. Donovan*, 1 Taunt. 555, S. C. 2 Campb. 78. Where houses or lodgings are let from month to month or week to week, a month's or week's notice must be given, unless it be otherwise stipulated; *Peacock v. Raffan*, 6 Esp. 4; and that must expire on the day of entry, at the end of the month or week; *Kemp v. Derrett*, 3 Campb. 509. When the tenancy cannot be ascertained, and a notice to quit is served personally on the tenant, and he makes no objection to it, this is *prima facie* evidence, that the tenancy commenced at the period when the notice expires; *Clarges v. Forster*, 13 E. 405. *Jones v. Thomas*, 2 Campb. 647; but otherwise, if the notice be not personally served; *Ash v. Calvert*, 2 Camp. 387.

In case of
 deserting
 premises.

3. If any tenant at rack-rent, or where the rent reserved shall be full three fourths of the yearly value of the demised premises, who shall be in arrear for one year's rent, shall desert the premises, the 11 G. II. c. 19, s. 16, requires a notice to be affixed on the premises by two justices of the peace, (see *Form*.) The 57 G. III. c. 52, extends this provision to tenants holding under any demise or agreement.

4. A notice to quit, need not be in writing; *Macartney v. Crick*, 5 Esp. 196; unless it be so expressly agreed between the parties; *Legg v. Benison*, Willes, 43; but it is the safest course for the purpose of evidence.

5. Where joint lessors are partners in trade, a notice to quit, signed by one is sufficient; *Elliot v. Hulme*, 2 Mann. and Ryl. 453; but in the case of joint tenants, it must be signed by all; *King v. Woodward*, 3 B. and A. 689.

*Notice from a Landlord to a Tenant to Quit.**Between
Landlord
and
Tenant.*

To Mr. A B

I do hby give you notice to quit and deliver up on the day of next possession of the messe or dwelling-house situate in the parish of in the co of which you now hold under me (a)

Dated, &c.

C D

Another by an Agent.

As agent for and on behalf of the Rev. the Dean and Chapter of, &c. I do hby give you notice that the sd D and C do intend to enter upon and take posson of all and singr the tithes hereds matters and things of every description which you now hold as tenant under the sd D and C within the parish, &c. and you are therefore required to quit and deliver up posson of the same at the end of this present current year for which you now hold the same Given under my hand this, &c.

To Mr. A B

Another to quit or pay Double Rent.

I do hby give you notice and require you to quit and deliver up on, &c. And in deft thof I do hby give you notice that you are to pay to me (b) double the yearly value of the sd messe or dwelling-house farm lds, &c. from the sd day of so long as you continue to hold over the same according to the form of the statute in that case made and provided.

Notice from Tenant to Landlord of Intention to Quit.

I do hby give you notice that I shall quit and deliver up to you (if an agent, 'as agent of G H my landlord') or such or. psn as you may appt to rece the same on the day of which will come and be in the yr of our Lord 18 being the end of my present yr's holding the posson of all that messe or dwelling-house garden and hereds with the appts situate in or elsewhere in the co of As Witness, my hand this, &c.

To Mr. C D.

A B

(a) If the commencement of the tenancy is uncertain, say, 'Provided your tenancy commenced at that period of the year or orwise that you quit and deliver posson of the sd messe, &c. at the end of the year of your tenancy which shall expire next after half a year from the time of your being served with this notice.'

(b) These words are not necessary to entitle the landlord to recover, see Oba. 1.

*Between
Landlord
and
Tenant.*

Notice of determining a Lease.

I do hby give you notice that in pursuance of the power given and reserved to me by the indre of lease bearing date, &c. and made betn, &c. comprising the messe or tent farm lds heredts and preses which I hold as lessee to you situate, &c. that it is my mind and intention to avoid the same indre of lease at the expiration of the first seven years of the term thby granted which will come and be on, &c. and that I shall quit and deliver up the posson of the sd messe and preses to you at that period Dated, &c.

*Notice affixed to Premises, on being deserted by the
Tenant.*

Obs. As to this notice, see *Notices to Quit*, Obs. 3.

To Mr. A B

Take notice that upon the complaint of C D of, &c. made unto us (*justices*) esquires two of his Maj. Justices of the Peace for the sd co that you the sd A B have deserted the messe and tent called consisting of situate lying and being at afd in the co afd unto you demised at rack-rent by the sd C D and that there is in arrear and due from you the sd A B unto the sd C D one yrs rent for the sd demised preses uncultivated and unoccupied so that no sufficient distress can be had to countervail the sd arrears of rent We the sd justices having no interest nor either of us having any interest in the sd demised preses on the sd complaint as afd and at the request of the sd C D have this day come upon and viewed the sd demised preses and do find the sd complaint to be true and on the day of this present month of we shall return to take a second view thereof and if upon such second view you or some psn on your behalf shall not appear and pay the sd rent in arrear or there shall not be sufficient distress on the sd preses then we the sd justices will put the sd C D into the posson of the sd demised preses according to the form of the statute in such case made and provided *In Witness* whereof we have hereunto set our hands and seals and have caused this notice to be affixed on the outer door of the dwelling-house the same being the most notorious part of the sd preses this day of in the yr of the reign of our sovereign lord, &c. of the United Kingdom, &c. King, &c.

*Between
Landlord
and
Tenant.*

Notice from Landlord to repair Premises.

Mr. A B

I do hereby give you notice and require you to put in good and tenantable order all and singr the house and preses which you now rent of or hold under me situate, &c. particularly (stating such places as particularly want repairing) *As Witness* my hand this
day of 18

*Notice in the London Gazette of a Composition Deed
having been executed.*

Obs. A conveyance of all a trader's property to trustees, for the benefit of creditors, is by the 6 G. IV. c. 16, s. 4, not to be deemed an act of bankruptcy, provided the deed be executed by every such trustee, within fifteen days after the execution thereof by the trader, and the same be attested by an attorney and solicitor, and notice of the date and execution of the deed, and of the name and place of abode respectively of every trustee be advertized in the Gazette and other papers.

This is to give notice that by indre bearing date the day of 18 J T of, &c. baker hath conveyed and assigned all his estate and effects whatsr to A A of, &c. mealman and B B of, &c. coal-merchant trustees upon trust for the benefit of the creditors of the sd J T and that the sd indre was exted by the sd J T on the sd day of and by the sd A A on the day of afd and by the sd B B on the day of afd which execution (a) was witnessed by J J of, &c. gentleman

Notice to prevent Sporting.

Mr. A B

We whose names are hereto severally and resply subscribed do hereby give you notice that henceforth you do not at any time enter or come upon any part of the farms lds woods hereds and preses in our sevl and respive possosns or occupations situate, &c. or any or either of them or elsewhere in the kingdom of G. B. either for the purpose of coursing hunting shooting fishing or fowling or on any pretence whatsr as we shall deem evy such entry and intrusion as wilful trespass done to us resply and shall take our remedy for the same according to law Dated this, &c.

(a) As to the time and mode of executing the deed, see Obs. above.

*Notice from one Partner to another, for referring
Disputes to Arbitration.*

Obs. As to the form of this notice, see *Copartnership*, Pref. § 15.

Sir

I hby give you notice that it is my intention and desire that the differences now subsisting between us respecting, &c. (state subjects of difference) in conformity to the clause or permission for that purpe contd in the deed or articles of coptnshp betn us And in pursuance thereof I do hby nominate and appt A B, &c. my arbitrator concerning the preses And I hby give you furr notice that in deft (a) of your naming an arbitrator therein on your behalf by the space of fourteen days next after the date hereof I shall at the expiration thereof submit the subjects of dispute to the arbitration of two indifferent persons to be by me named (the sd A B being one of them) for their determining the same in pursuance of the authty given to me for that purpe in and by the sd articles of copartnership.

PARTITION.

§ 1. Partition, is the division of lands or tenements by coparceners, joint tenants, and tenants in common. It is made either by the agreement of the parties, or it is compulsory; that is, either by writ *de partione faciendâ* at law, or by bill in equity. (As to the mode of proceeding, to effect partition under a commission issuing out of Chancery, see *Allnat on Partition*, 77, 209.) A partition between coparceners, might formerly be by parol, and now it may be by writing only, (see *Agreement for a Partition*, Obs. 1, vol. i. p. 41.) When partition is made pursuant to the writ, and final judgment is given, the partition is complete, as to coparceners, without any conveyance; but, as to joint tenants and tenants in common, it is for the most part necessary, that mutual conveyances or releases should be executed. Where partition is made by bill, it is perfected by conveying the allotments made to the several parties, and if they be not competent to execute the conveyances, the partition cannot be perfected; *Whaly v. Dawson*, 2 Sch. and Lef. 367. It is usually left to the master to determine who shall be parties to the conveyance.

2. Formerly, deeds of partition consisted of the division and allotment of the shares, with some few covenants; and in respect to coparceners this may, in most instances, be sufficient; but in modern practice it is usual to effect partition by mutual conveyances.

(a) As to this clause, see *Copartnership*, Pref. s. 15.

The proper mode of conveyance from one joint tenant to another is a release, or, in case of incorporeal hereditaments, a grant, livery of seisin not being necessary, because each joint tenant is seized *per mie* and *per tout*, i. e. in every part and in the whole, Litt. 288. For this same reason a conveyance by lease and release is not absolutely necessary, although it is commonly adopted by way of precaution, lest the joint tenancy should by any means have been suspended, Alln. Part 130. Tenants in common must convey to each other by lease and release, Co. Litt. 169. To effect a partition of freehold lands, it is usual, either for all the tenants to join in conveying the entirety of the estate to a trustee, limiting the several particular parts allotted to each to his use, or to convey each particular part by a separate deed to a trustee to the use of the respective parties. Where only one deed is executed, it should be enrolled, and an attested copy thereof be delivered to each party. If the title of any of the shares is not clearly and satisfactorily deduced, a feoffment is the preferable mode of conveyance for gaining an estate of freehold. Terms for years may be conveyed by joint-tenants and tenants in common, by assigning the entirety to a trustee, and taking from him a reassignment of each respective share, or by the less expensive mode of each party assigning his undivided share to the other by one deed. Where the property is small, the re-assignment by the trustee may be made by way of indorsement on the original deed of assignment. All outstanding terms, which it would be material to assign in an ordinary conveyance, should also be assigned on a partition, either in a separate deed, as applicable to each allotment, or by one deed to a trustee, to attend the inheritance.

Freeholds.

3. The husbands of coparceners seized in fee simple in right of their wives, may make an equal partition, but the wives must be parties, or the partition will not be binding on them, Co. Litt. 170; see also *Fines and Recoveries*, Pref. § 7, and vol. ii. p. 114. If the partition be unequal, it will be voidable by the wife on the death of either, 4 Co. 726, Dy. 67, a. So a partition of lands entailed between parceners, if it be equal at the time of the partition, shall bind the issue in tail, Co. Litt. 173. A coparcener and her husband may grant a rent in fee for equality of partition, Co. Litt. 169; but it is otherwise with joint tenants, *Marsh and Smith's Case*, 1 Leon. 27. By the Inclosure Act, 41 G. III. c. 109, commissioners are authorized at the request of the parties to make partition of the allotments to such of the owners or proprietors who should be entitled to the same as coparceners, joint tenants, and tenants common, when, by reason of infancy, coverture, or any other disability, they could not make any effectual division thereof.

Parties to a partition.

4. A common deed stamp of 1*l.* 15*s.* where the sum paid for equality of partition is under 300*l.*; but where it exceeds that sum, then an *ad valorem* stamp on the amount paid as in other conveyances, together with a further progressive duty of 1*l.* 5*s.* (or, if the deed be liable to an *ad valorem* duty, then 1*l.*) for every 1080 words above the first 1080. Duplicates to be charged with the same duties, and also other deeds necessary for completing the title.

Stamp.

5. The statutes enforcing partition do not extend to copyholds, *Burrell v. Dodd*, 3 B. and P. 378; the partition of which, whether by consent of the lord or in pursuance of a decree in equity, must be made by surrender, Co. Cop. 5. 54. Gilb. Ten. 185; *Oakeley v. Smith*, Amb. 368. *Allnatt on Partition*, 135; except as far as relates to tenants in tail having equitable estates, see *Fines and Recoveries*, vol. ii. p. 108.

Partition of copyholds.

*Freeholds.**Partition between two Coheirs of Freehold Estates.
(Old Form.)*

Obs. As to what is necessary to effect a partition between coheirs, see *Agreement for a Partition*, vol. i. p. 41, and also *Partition*, Pref. § 2. For variations, where either of the parties are married women, see *Fines and Recoveries*, vol. ii. p. 114.

This Indre made, &c. Betn M C of, &c. spinster one of the daurs and coheirs of T C late of, &c. of the one pt and A C of, &c. spinster the or. daur and coheir of the sd T C of the or. pt Whas the sd T C being seised to him and his hrs of divers freehold messes, &c. hnaftmndt hath lately departed this life leaving the sd M C and A C his daurs and coheirs him surviving And whas the sd M C and A C have already made an equal division of all the freehold estes of the sd T C and it hath been agrd that the sd M C shall pay unto the sd A C the sum of £ — for equality of partition Now this Indre Witnesseth That in conson of the sum of £ — by the sd M C to the sd A C in, &c. pd the rect, &c. and also in conson of the covt hnaftmndt on the part of the sd M C she the sd A C for herself her hrs and ass doth hby covt, &c. with, &c. the sd M C that she the sd M C shall have hold and enjoy to her and her hrs for ever in severalty the messes lds tents and heredit, &c. situated at late of the sd T C for her share and property of the sd real este absolutely freed and discharged of and from all right title purparty share claim and demand of her the sd A C her hrs and ass of in and to the same preses And this Indre furr Witnesseth That in conson of the preses she the sd M C doth hby for herself and her hrs and ass covt, &c. with, &c. the sd A C her hrs and ass that she the sd A C shall have and enjoy to her and her hrs and ass for ever in severalty all those messes or tents lds and heredit situate at, &c. for her share and property of the sd real este absolutely freed and discharged of and from all right, &c. of her the sd M C her hrs and ass And each of them the sd M C and A C for herself her hrs exs and ads doth hby covt, &c. (that she hath done no act to incumber) And the sd M C and A C for themselves, &c. do, &c. covt, &c. with each or. and with the hrs and ass of the or. by these prests That each of them the sd M C and A C and their respive hrs, &c. shall (do any acts for further assurance) And that it shall be lful for each of them and each of their hrs and ass (quietly to enjoy) In Witness, &c.

Deed of Partition of Freehold and Copyhold Estates.
(General Precedent, with Variations where there is a Declaration to bar Dower.)

*Freeholds
and
Copyholds*

Obs. As to the most usual mode of effecting partition, see Pref. § 2; as to the stamp, see § 4.

This Indre made, &c. Betw A B of, &c. of the first pt C B of, &c. of the second pt and (trustee) of, &c. a trustee nominated for the purps hnaftmentd of the third pt Whas the sd A B and C B are seised of the freehold lands and heredit described in the first and second schedules hereunder-written and intended to be reld or orwise assured as jt tenants in fee simple in posson And whas the sd A B and C B are also seised of the copyhd lands and heredit described in the sd schedules as jt tenants in fee simple in posson according to the custom of the manor of in the co. of whereof the same lands and heredit are holden And whas the sd A B and C B have agreed that partition should be made betw them of the sd lands and heredit by two indifferent psns one of them to be chosen by the sd A B and the other by the sd C B and in case they could not agree then by such one person as the two sd referees should for that purpose appt And whas the sd arbitrators have awarded and adjudged all lds and heredit marked in the map or plan hereunto annexed to be the specific part or share of the sd A B he paying unto the sd C B the sum of £ — for equality of partition And all those marked on the same map togr with all timber and or. trees to be the specific part or share of the sd C B saving and reserving nevns unto and for the sd A B a right of road or way as the same was then used and exercised for horses carts carriages and orwise along the N and E sides of the sd grounds And whas the sd specific allotments have been divided and fenced and the sd A B and C B are desirous of completing the partition of the sd lands and heredit And whas on or before the day of the date of these prests the sd sum of £ — has been duly paid by the sd A B unto the sd C B Now this Indre Witnesseth That in pursuance of the sd agreement and in conson of the preses and also in conson of 5s. apiece of, &c. to each of them the sd A B and C B in, &c. pd by the sd (T) at, &c. the rect, &c. They the sd A B and C B Have and each of them Hath bargd sold and reld and by, &c. unto the sd (T) (in his actual posson, &c. see Releases, Gen. Prec.) and his hrs and ass All those, &c. And all houses, &c. And the revn, &c. And all the este, &c. of them the sd A B and C B and each of them of

*Recital of
seisin in
joint
tenancy.*

*Contract
for parti-
tion by ar-
bitrators.*

Arbitration.

*Of allot-
ments, &c.*

Testatum.

Freeholds in to and out of the sd lands and heredit hby reld or
and orwise assured or intended so to be and evy of them
Copyholds and evy pt and pcl thof with their and evy of their ap^{ts}
Habendum. *To Have and to Hold* the sd lands, &c. and all and singr
 or. the preses hby reld or orwise assured or intended so
 to be unto the sd (T) but to the uses and upon the
 trusts hnaft^r expsd and decl^d of and concerning the
 same resply that is to say *As to for and concerning all*
 such and so many and such pt and pts of the same lds
 heredit and preses as are mentd and described in the
 first schedule hereunder-written or hereunto annexed
 And also the sd right of road or way as the same is now
 used and exercised for horses carts, &c. along the E
 and N sides of the sd lds, &c. *To such uses* upon such
 trusts and for such intents and purps as the sd A B by
 any deed or deeds instrumt or instrumts in writing to
 be by him duly sealed and delivered shall direct and
 appt And in deft of and until such direction or apptmt
 (a) To the use of the sd A B his hrs appte^{es} and ass to
 be held in severalty in lieu of the undivided pt or share
 of the sd A B in the sd lds liby reld, &c. *And as to for*
and concerning all such or. pt or pts as are mentd and
 described in the second schedule hereunder-written,
 &c. To such uses as the sd C B shall by any deed, &c.
 direct and appt And in deft of such direction or apptmt,
 &c. *To the use* of the sd C B his hrs appte^{es} and ass
 to be held, &c. *And this Indre furr Witnesseth* (b) That
 for the purpe of carrying the sd agrt into full effect and
 in conson of the covt hnaft^r contd on the pt of the

As to cer-
 tain parts
 to such uses
 as A B shall
 appoint.

Further
 Testatum.

(a) If there is to be a declaration to bar dower, say, 'To the use of the sd A B and his ass for and during the term of his natural life and after the determination of that este by any means then to the use of the sd (T) and his hrs during the natural life of the sd A B in trust for him and his ass and to the intent that no wife of the sd A B may be entitled to dower in or out of the sd hnbe^{fe} last mentd preses and after the determination of the este hnbe^{fe} limited to the sd (T) then to the use of the sd A B his hrs and ass to be held, &c. *as above.*'

(b) If there is to be a declaration to bar dower, then, instead of the mutual covenants to surrender, say, '*And this Indre furr Witnesseth* That for the purpe of, &c. each of them the sd A B and C B for himself and his respie hrs and ass doth hby covt, &c. with and to the sd (T) his hrs and ass that they the sd A B and C B and their respie hrs and ass shall and will at the costs and chas of the psn or psns resply to whose use the sd surrender shall be made as hnaft^r is mentd at or before the next general copyhd or customary court to be holden for the sd manor of or as soon after as conveniently may be surrender into the hands of the lord or lady of the sd manor according to the custom of the sd manor *All those* copyhd lds mentd and specified in the first and second schedules hereunder-written *To the intent* that the sd (T) may be admitted tenant thereto *To Hold* the same to the sd (T) his hrs and

sd A B He the sd C B for himself his hrs, &c. doth hby covt, &c. with, &c. the sd A B his hrs and ass That he the sd C B his hrs or ass shall or will at or before the next customary court to be holden for the sd manor or as soon after as conveniently may be well and effectually surrender into the hands of the lord or lady of the sd manor all and singr the lds and hereds mentd and specified in the first schedule hereunder-written And the revn, &c. and all the este, &c. of him the sd C B of in to and out of the sd lds, &c. And also the sd right of road or way as the same is now used and exercised for horses, &c. *To the intent* that the sd A B may immediately thereon be admitted tenant thereto to hold the same copyhd lds and hereds so mentd and specified in the sd first schedule hereunder-written to be holden in severalty to the sd A B and his hrs for ever at the will of the lord according to the custom of the sd manor And that in the mean time and until such surrender shall be made as afd and the sd A B his hrs or ass shall procure admittance by virtue thereof he the sd C B his hrs and ass shall stand seised and possessed of all the same moiety *In Trust* for the sd A B his hrs and ass *And* the sd C B for himself, &c. doth, &c. (covenant that he hath done no act to incumber) *And this Indre furr Witnesseth* That in conson of the preses He the sd A B for himself his hrs and ass doth hby covt, &c. with, &c. the sd C B his hrs and ass That he the sd A B his hrs and ass shall surrender, &c. all, &c. the copyhd lds, &c. mentd, &c. in the second schedule, &c. And the revn, &c. And all the este, &c. of him the sd A B of, &c. And in the mean time (stand seised for C B) And he the sd A B for himself, &c. doth, &c. (covenant that he hath done no act to incumber) *And this Indre furr Witnesseth* That for the furr better and more perfectly and effectually dividing conveyng and assuring the sd copyhd preses in severalty in manner hnbeffe expsd each of them the sd pties hereto as far as he hath any right or int in the sd copyhd preses *Doth* hby remise rele and for ever quit claim and also assign assure and convey unto the or. of them his hrs and ass All the este right title int use trust inance property posson claim and demand whatsr which each of the sd pties resply hath in the pt share and allotment of the or. of them the sd pties of and in the sd copyhd hereds and

Freeholds
and
Copyholds

Covenant
from C B
to sur-
render.

Further
Testatum.

Covenant
from A B.

Further
Testatum.

Reciprocal
Releases as
to copy-
holds.

ass for ever nevns Upon the same trusts and to the same uses as are hnbeffe expsd and declod of and concerning the sd freehds *And* each of them the sd A B and C B doth, &c. (covenant that he hath done no act to incumber) *And this Indre furr Witnesseth* That for the furr, &c. as above.

Freeholds and Copyholds	preses as the same are divided and partitioned by these preats or intended so to be <i>To the intent</i> that each of them the sd parties hereto may for ever hraft have hold and enjoy his respive purparty share or allotment of and in the sd copyhd hereds and preses to himself and his respive hrs in severalty freed and absolutely discharged of and from all rights claims and demands
Covenants for title.	whatsr of them the sd releasing parties <i>And</i> each of them the sd A B and C B so far as relates to his respive undivided moiety of and in the sd freehd and copyhd hereds and preses and not furr or orwise doth hby for himself and his respive hrs and ass covt, &c. with and to the sd (T) his hrs and ass in manner following that is to say That for and notwithstanding any act deed matter or thing whatsr by the sd A B and C B or either of them or by their late father A B decd done committed or willingly or knowingly suffered they the sd A B and C B are now seised of the sd freehd and copyhd lds hereds and preses hby reld conveyed covenanted to be surrendered or orwise assured or intended so to be in equal shares and proportions of and for a good sure absolute and indefeasible este of inhance in fee simple
Rightfully seised.	<i>And</i> that they now have in themselves good right full power and absolute authty to grant rele convey surrender or orwise assure the sd freehd and copyhd lds hereds and preses hby reld, &c. and evy pt thereof to and upon the uses and trusts decld and contd of and concerning the same <i>And</i> that the same freehd and copyhd lds shall and may be held and enjoyed accordingly witht any let suit trouble denial interruption eviction or ejectment whatsr of from or by the sd A B and C B or either of them their or either of their hrs or any or. psn or psns whomsr lfully or equitably claiming or to claim by from through under or in trust for them or either or any of them or by from through or under the sd A B their late father <i>And that</i> free and clear and freely clearly and absolutely acquitted exonerated reld and discharged or orwise by the sd A B and C B their hrs exs or ads well and sufficiently saved harmless and kept indemnified of from and agst all and all manner of former and or. gifts grants bargains, &c. (see <i>Releases, Gen. Prec.</i>) and incumbs at any times heretofore or to be at any times hraft made done committed occasioned or permitted by them the sd A B and C B or either of them or by any psn or psns rightfully claiming or to claim by from under through or in trust for them or either of them or by the sd A B their late father or any psn, &c. rightfully claiming, &c. by, &c. or through him <i>And moreover</i> that they the sd A B and C B and
Good right to convey.	
Quiet enjoyment.	
Free from incumbrances.	
Further assurance.	

each of them and their and each of their hrs and all
pens whomsr lfully or equitably claiming, &c. by, &c.
them or either of them or by, &c. the sd A B their late
father any este, &c. of in to or out of the sd freehd and
copyhd lds heredit and preses shall, &c. make, &c. acts,
&c. for the better, &c. granting conveying, &c. and
surrendering the same lds, &c. and evy of them and
evy pt thereof to the uses hnbefe expssd and decl'd of
and concerning the same *In Witness, &c.*

*Lease-
holds.*

Partition of Leaseholds between two Tenants in Common.

Obs. As to the mode of conveying leaseholds, see Pref. § 2.

*This Indre made, &c. Betn A of, &c. of the one pt
and B of, &c. of the or. pt Whas* (recite two leases
granted to testator) *And whas* (recite will of testator
bequeathing the leaseholds to A and B as tenants in
common) *And whas* it hath been agrd and decl'd by and
betn the sd A and B that the undivided moiety or half
pt of the sd B of and in the messe or tent situate, &c.
and comprised in the first hnbefe in pt recited indre
bearing date, &c. shall be assd to the sd A And that
the undivided moiety or half pt of the sd A of and in
the messe, &c. comprised in the second in pt recited
indre of lease shall be assd to the sd B in manner hnafter
mentd *And whas* the value of the messe to be allotted
to the sd A in severalty exceeds that of the messe to be
allotted to the sd B it hath been agreed that the sd A
shd pay to the sd B the sum of £— for equality of
partition *Now this Indre Witnesseth* That in pursu-
ance of the sd agrmt and in conson of the sum of £—
pd by the sd A to the sd B the rect whereof the sd B
doth hby acknge, &c. He the sd B Hath bargained
sold assigned, &c. and by, &c. *Doth bargain sell, &c.*
unto the sd A his exs ads and ass *All that* the undivided
moiety or equal half pt of him the sd B of and in all
and singr the messe or tent and preses comprised in the
first in pt recited indre bearing date, &c. with the rights
members and apts belonging thereto And also of and
in the sd indre of lease and all bent and advantage
thereof And all the este, &c. of him the sd B of and in
the sd messe, &c. *To Have and to Hold* the sd moiety,
&c. and all and singr or. the preses hby assd or intended
so to be unto the sd A his exs ads and ass henceforth
during all the residue and remr now to come and un-
expired of the term of yrs granted by the first hnbefe
recited indre of lease *Subject* nevss to the payment of

Assignment
by B.

*Lease-
holds.*

Assignment
by A.

Mutual
covenant of
indemnity.

the rent and to the performance and observance of all the covts condons and agrmts therein reserved and contd on the tenant's or lessee's pt to be pd done observed and performed so far as relates to or concerns the sd moiety or equal half pt hnbeft assd or intended so to be *And this Indre furr Witnesseth* That in conson of the preses He the sd A Hath bargained, &c. and by, &c. Doth bargain, &c. unto the sd B his exs ads and ass *All that* undivided moiety, &c. of him the sd A of, &c. the sd messe, &c. comprised in the second hnbeft in pt recited indre of lease bearing date, &c. with the rights, &c. and all the este, &c. of him the sd A of and in, &c. *To Have*, &c. the sd undivided moiety, &c. unto the sd B his exs, &c. henceforth during, &c. *Subject nevass*, &c. *And* each of them the sd A and B for himself and his respive hrs exs ads and ass doth hby covt, &c. with, &c. the or. of them and his respive hrs, &c. That for and notwithstanding, &c. each of them the sd A and B at the time of sealing and delivering these prests hath in himself good right, &c. to assign and assure his undivided moiety or equal half part respvly of and in the sd messes, &c. comprised in the sd in pt recited indres of lease bearing date respvly the and days of for the residue and remr now to come and unexpired of the respive terms of yr and yrs *And* that free, &c. and freely and clearly acquitted, &c. or orwise by them the sd A and B, &c. *And furr* that subject to the rents and covenants reserved and contd in and by the sd in pt recited indres of lease it shall and may be lful to and for each of them the sd A and B quietly, &c. to enter into the preses hby assigned and allotted to him, &c. for and during, &c. *And moreover* that each of them the sd A and B, &c. shall, &c. make, &c. (acts for further assurance) *And lastly* that each of them the sd A and B shall and will at all times during the continuance of the respive terms granted by the hnbeft recited indres of lease respvly pay the rent and perform and observe the covenants reserved and contained in and by the indre of lease to each of them the sd A and B sevvly allotted and assigned and shall and will defend save harmless and keep indemnified the or. of them his exs ads and ass his and their lds goods and chattels of from and agst all dams costs chas and exps which he shall or may incur expend or be put unto for or on account of the nonpaymt or nonobservance of the same rent and costs *In Wilness*, &c.

PETITIONS.

A petition, is a supplication made by an inferior to a superior, and especially to one having jurisdiction; as petitions to Parliament in its judicial character, and petitions in Chancery, &c. A petition in Chancery, is a statement in writing, addressed to the Lord Chancellor, Master of the Rolls, or Vice-Chancellor, shewing some matter whereupon the petitioner prays some order of the Court. By the 3 & 4 W. IV. some petitions in bankruptcy cases are presented to the Court of Review, instead of to the Lord Chancellor, for which, see *Bankruptcy*, vol. i. p. 213.

Petition for leave to bring in a private Bill relative to the Sale, &c. of Estates.

To the Right Hon. the Lords Spiritual and
Temporal in Parliament assembled

The humble Petition of, &c.

Sheweth

That by indres of lease and rele bearing date, &c. (recite settlement, will or other instrument, under which the petitioner derives his title) That (state reason for the sale or exchange, &c. and necessity for obtaining an Act of Parliament) That it would be for the benefit of your petitioner and of all pties interested in the sd estates that such of the estates as are situated at should be sold for the purps of, &c. (or exchanged, &c.) and in order to facilitate such sale or exchange the sd hath consented and agrd that such part of the estates as are proposed to be sold (or exchanged) shall be discharged from raising and paying the sd yrly sums of (jointure, &c.) and the sd sum of £ — shall be charged upon the rest of the estates, &c. That hath also consented and agrd that the powers given and reserved to him by the same indre (or will) for limiting a jointure to any future wife and for raising portions for the childn, &c. shall be varied, &c. But although the carrying this proposal into execution can be no prejudice but will be a manifest advantage to all pties claiming under, &c. yet by reason of the infancy of all the childn of your petitioner the same cannot be effected without the aid and authty of Parliament Your petitioner therefore humbly prays that your lordships will be pleased to give leave to bring in a bill for vesting in trustees their hrs and ass the sd lds, &c. discharged from all estates uses trusts powers and provi-

sions limited mentioned decd and covenanted of and concerning the same in and by the sd hnbeft mentd indres (or will, &c.) and that the sd (*trustees*) and the survivor of them and the hrs of such survivor shall and do with all convenient speed of his and their own proper authty if your petitioner shall be dead but if living then by and with his consent and approbation to be signified in writing under his hand and seal sell and dispose of the sd lands, &c. (or to exchange, &c. and to settle the lds heredit and tents so taken in exchange to the same uses, &c.)

And your petitioner shall ever pray, &c.

Witness

Petitioner

Petition by an Executor that an Infant Co-Trustee may be ordered to join in a Conveyance.

Oba. By the 1 W. IV. c. 60, s. 6, repealing and amending 2 G. I. and 5 G. I. in respect to lunatics and idiots; 6 G. IV. as to conveyances by infants, &c.; and 7 G. IV. c. 43, in respect to conveyances by trustees; infant trustees, and mortgagees, are empowered to convey by direction of the Court of Chancery.

To the Right Hon.

Master of the Rolls

The humble petition of (*petitioner*) of, &c.

Sheweth

That whas by indres, &c. (recite conveyance to decd trustee in trust for decd *cestuique trust*) That the sd (*cestuique trust*) by his last will and testament in writing duly exted and attested for the devise of estates of inheritance and bearg date on or about the day of, &c. did order and direct that his funeral and testamentary exps and all his just debts shd be fully pd by your petitioner his extrix thereafter mentd and after full payment and satisfaction thereof did give devise and bequeath unto your petitioner her exs ads and ass all and singr his household furniture goods plate linen books book-debts and all the rest and residue of his estate and effects of every kind quality and description whatsr To Hold the same unto your petitioner her hrs exs and ads upon the trusts and to and for the ends intents and purps and with under and subject to the powers and provisos thereafter mentd and expsad that was to say *inter alia* that yr petitioner should with all convenient speed after his dece sell dispose and convert into money his sd household furniture goods and effects and sell all and singr his freehold and leasehold messes, &c. togr with the residue of his este And the sd (*testator*) by his sd will did appt yr petitioner sole extrix thereof and did direct that the rect and recta of

yr petitioner to any purchaser or purchasers of any pt of his real or psnl este should be a good and valid discharge for the amount of such purchase-money to such purchaser or purchasers That the sd testator departed this life on or about, &c. witht having altered or revoked his sd will and the same was duly proved in the Prerogative Court of the Archbp of Canterbury by yr petitioner his sole extrix as afd That the sd (*trustee*) departed this life on or about, &c. intestate as to the sd preses leaving coheirresses That the sd (*infant*) one of the sd coheirresses is an infant under the age of 21 that is to say about the age of and in her the legal fee in one pt of the sd preses is now vested That your petitioner in pursuance of the trust reposed in her under or by virtue of the sd will of the sd testator did lately cause the sd preses to be sold by public auction, but the legal fee in one pt of the same preses as afd being vested in the sd (*infant*) the infant afd the same pt cannot be by her conveyed witht the order and direction of the Court of Chancery or Court of Exchequer in pursuance of the statute in that case made and provided

Your petitioner therefore prays your Hon. Court that the sd (*infant*) the infant may be directed by the order of this Hon. Ct to convey and rele the preses hnbefc in the sd indres of, &c. comprised and mentd and all her este right title and int in and to the same unto and to the use of yr petitioner her hrs and ass or to such psn or psns and in such manner and form as your petitioner shall in that behalf direct and appt

And yr petitioner shall ever pray, &c.

POWERS.

§ 1. A power, generally speaking, is an authority which one man gives another to act for him, as to receive debts and dividends, to distrain, &c. or the powers reserved to trustees to sell, make leases, and the like. This kind of powers, when not coupled with any interest, are denominated dry or naked powers, and seem to be the only kind which was originally known at common law. But there is another kind of powers now in common use, which has been

defined to be, a right reserved by a person to himself, or given by him to another, to divest land from those on whom it was settled, by the instrument containing the power, and to vest it in others, as powers of revocation and appointment to new uses; Co. Litt. 342, b. Butl. notes [n. l.] These are said to derive all their effect from the Statute of Uses. Since that Statute, a man may, in a conveyance to uses, direct or model the use as he pleases, and the Statute executes the use; he may, therefore, annex powers to an estate, which cannot be done in a common law conveyance. Powers are, for the most part, inserted in deeds, except powers of attorney, which are frequently given by a separate deed, and otherwise called, letters of attorney, (see *Powers of Attorney*.)

POWERS OF ATTORNEY.

2. A power, or letter of attorney, is a writing authorizing an attorney to do any lawful act in the stead of another, as to give assisin of lands, recover debts, or sue a third person, &c. which may be either general or special. In every case, the authority must be strictly pursued; Plowd. 475. Co. Litt. 52. 1 Salk. 96. A power to receive and recover all monies, to compound, discharge, and give releases, does not authorize the negotiation or endorsement of bills; *Hogg v. Snaith*, 1 Taunt. 347; *Hay v. Goldmid*, 2 Smith Rep. 79. The authority given by letter of attorney, must be executed during the life of the person that gives it; Perk. Sect. 188. Co. Litt. 52. 2 Rol. Abr. 9. Powers of attorney, may either be given in deeds, as in assignments, (see *Assignments*,) or by separate deed, as in the subsequent precedents. As to the delegation of such a power, see *Appointments*, Pref. § 13.

Stamp.

3. A letter of attorney, by soldiers and sailors for receiving prize-money, is chargeable with a duty of 1s. and for receiving wages, 1d.; a letter of attorney for receiving dividends and transferring stock, is liable to a stamp of 1d. except where the value of the yearly dividends is under 3l.; and every other letter of attorney is charged with a stamp of 1d. 10s. together with a further progressive duty of 1d. 5s. for every entire quantity of 1080 words above the first 1080 words.

General Power of Attorney for the Management of the Appointor's Affairs during his Absence abroad.

Obs. As to the stamp, see Pref. § 3.

Appoint-
ment.

To enter
and view
lands.

Know all Men to whom these Presents shall come that I, A B of, &c. being about to go into parts beyond sea Have made ordained constituted and appointed and by these prests Do make C D of, &c. my true and lful atty for me and in my name to enter into view and survey at his free will and pleasure all and singr my messes farms tents and hereditas whater and wheresoever situate and to view and survey the state and condition of the same to give notices for repairs to the tenants thof to set let manage and improve the estates to the best advantage to fell and cut down

timber and or. trees on any of the sd lds and heredit
And the same to sell and dispose of as he shall see
necessy [to take down and rebuild all or any houses
edifices or buildings as occasion shall require] And do
every or. act or thing for the improvement of the same
which he shall think fit *Also* to pay all taxes rates chas
and exps and make all other payments whater which
shall be paye or grow due for or on acct of the honours
manors messes lds heredit and or. preses of me the sd A B
And also to sign and give notices to quit to the tenants
of the sd estates and to contract with any pson or psons
for leasing any of the sd preses to set fines for new
leases and for that purpe for me and in my name and as
my act and deed to make seal deliver and exte any
leases demises grants or or. lful deeds or instruments
whater which shall be necessary in that behalf *And also*
to make sale or convey in exchange any of my freehold
copyhold and leasehold estates and the money arising
from such sale or on account of such exchange to lay
out or invest in or. lds and heredit or on government or
real securities or orwise as he shall think fit and to sign
seal and exte any deeds conveyances or assurances for
conveying either by absolute sale or in exchange for or.
freehd copyhd or leasehd estes of me the sd A B which
may be so sold or exchanged and to sign rectrs for the
conson money on such sales or exchanges and also to
transpose or transfer any mtges or or. securities which
he the sd C D may take for any monies which from
time to time may have arisen from such sales or ex-
changes and may have been placed out on such securities
And also for me and in my name to ask rece and recover
of all the stewards bailiffs receivers farmers tenants and
all or. occupiers whater of all and evy my sd lands
and heredit all rents arrears of rent services issues
emoluments sum and sums of money due owing and
paye or at any time brafr to grow and become due
owing and paye for and in respect or on acct of the
same preses in any manner whater and an account and
accounts of them and all or. my stewards bailiffs and ac-
countants whater or of any of them to require and take
and the sd bailiffs receivers servants or agents to dis-
place and remove and put new stewards, &c. in their
place as the sd C D shall think fit *And also* to sue for
rece and recover all manner of debts duties rents services
americiaments and sums of money whater due or to
grow due to me the sd A B in respect of the preses afd
and on nonpaymt thereof or of any pt thereof to enter
and distrain and the distress and distresses then and
there found to detain and keep or orwise to sell and

General.

To pay
taxes, &c.

To renew
leases, &c.

To sell or
exchange
lands, &c.

To account
with bai-
liffs, &c.

To sue for
and recover
debts, &c.

- General.** dispose of the same according to law And also to commence and prosecute any actions or suits in any court of law or equity for the recovery of any debt matter or thing whatsr due or paye or to become due or paye or coming unto or any wise appertaining to me on any account whatsr and the same actions or suits to prosecute and follow or to discontinue or become nonsuit therein if the sd C D shall see cause And also for me and in my name generally to use and take all lful ways and means for the recovering receiving obtaining and getting in any rent and sum or sums of money or or. things whatsr which is are shall or may be or by the sd C D shall be thought to be due owing belonging or paye unto me by any psn or psns whomsr as fully and effectually to all intents and purps as I the sd A B might or could do use or take if I were present in psn And also upon paymt rect or recovery of all and evy the afd rents and arrears of rent profits produce debts dues and sums of money for me and in my name to give proper acquittances and dischas for the same resply And also
- To give acquittances.** for me and in my name to present a fit psn or psns to any church or churches or ecclesiastical benefice or benefices to the right of presentation whereof I the sd A B am or shall or may be entitled and generally for me the sd A B and in my name to do exte and perform all and evy or. act and acts thing and things needful and expedient in and about the preses as fully and effectually to all intents and purps as if I were psnally present I the sd A B hby ratifying and confirming and agreeing to ratify. and confirm all and whatsr the sd C D shall lfully do or cause to be done in and about the preses afd And for the better doing performing and exting of all or any the matters and things afd I the sd A B do hby furr give and grant unto the sd C D full power and authty to constitute and appt and in his place and stead to put one or more atty or atties for me and as my atty or atties and the same again at his pleasure to revoke and or. or ors in his or their place or places to substitute And whas it is my intencion in case the sd C D should happen to depart this life during my absence that the sd E F should act as my atty in the room or stead of the sd C D Now know therefore that I the sd A B Have made, &c. the sd E F my, &c. atty for me and in my name after the dece of the sd C D (in case he shall happen to die during my absence) to do make sign seal and exte all such acts deeds matters and things whatr as the sd C D hnbefe is authorized and empowered to do make and exte I the sd A B to that intent giving and granting to and vesting in the sd E F all and evy
- To present to benefice.**
- Appointor ratifying, &c.**
- Appointment of E F as attorney in case of C D's death.**

such and the same powers and authties so to do in as full ample and extensive a manner to all intents and purps as are hnbefe by these prests given and granted to and vested in the sd C D and I do hby agree to ratify and confirm all and whatr my sd atties or either of them shall lfully do or cause to be done in the preses
In Witness, &c.

General.

Another by a Merchant going Abroad.

To all, &c. A B of, &c. sendeth greeting *Whas* the sd A B is shortly going to the East Indies and is desirous of appointing a person with sufficient power and authty to do all acts and deeds which may be requisite and necessary for the management of his este monies property and affairs during his residence abroad *Now know ye* That the sd A B *Hath* made, &c. and by, &c. *Doth* make, &c. his brother C B his, &c. atty in his name to collect and get in ask demand and rece all and evy sum and sums of money now due and owing or which at any time hrafrt shall be due and owing to him from any psn or psns whomsr for rent or on any or. acct whatr *And also* in his name and behalf to adjust and settle all or any of his accts with all and evy or any psn or psns with whom the sd A B hath had or shall or may have any transactions or dealings And to compromise agree and determine or refer to arbitration all disputes or differences that have arisen or may arise between him the sd A B and any or. psn or psns whomsr *And also* for him the sd A B and in his name to exte all such deeds instruments and writings as he the sd C B shall judge necessary and convenient for the apptmt of new trees under the marre settlement of the sd A B or for the changes of the trustees for the time being or any one or more of them and for the assignment of the trust property unto the new trustees alone or jtly with the continuing trustees *And also* in his name or orwise to sign any certificate of any bkpt to compound for any debt or debts owing or to be owing to him the sd A B and take a pt thereof in full for the same or to give a furr or enlarged time for the payment in such manner and upon such terms as the sd C B in his discretion shall think fit And in deft of paymt of the sd rents to distrain for the same or to bring actions to recover the same or to determine the leases by making entries on the lds and on nonpaymt of any such sum or sums of money as may be due and owing to the sd A B on any or. acct whatr to commence and prosecute any actions or suits either at law or in equity or orwise to

To collect debts.

To settle accounts.

To execute deeds.

To compound for debts.

To distrain for rents, &c.

- General.* act therein as to the sd C B shall seem meet And upon the rect of the sd sum or sums of money reply or any pt thereof acquittances or or. sufficient dischas for the sd A B or in his name and as his act and deed or in his own name to give and make for the same sums which he shall so rece in paymt or discharge of such debt or debts as afd And also (a) for the sd A B and in his name or orwise to draw accept or indorse any bill or bills of exchange promissory note or notes in the course of trade as he shall think fit And also for the sd A B and in his name to defend any actions or suits at law or in equity which have been already instituted and commenced against him the sd A B And also to accept the transfer of any stocks funds or securities which shall or may at any time hrafr be transferred to the sd A B or in his name And also to recover and rece all divds int and produce and sums of money now due or hrafr to become due or paye to the sd A B by or from M G and D C bankers of the sd A B and to adjust settle and discharge all accts and reckonings with the sd bankers And also by and out of all the mos which shall come to his hands by virtue of these prests to pay satisfy and discharge all or any debt or debts sum or sums of money now due or hrafr to become due and owing from the sd A B to any psn or psns whomsr
- To give acquittances.
- To draw bills, &c.
- To defend actions.
- To accept transfer of stock, &c.
- To discharge debts of principal.
- And adjust accounts.
- To reimburse himself.
- And invest the monies in stock, &c.
- To exonerate mortgaged estates.
- And to adjust and arrange liquidate settle allow and determine all and evy or any accts reckonings disputes or differences which now are depending and unsettled betn the sd A B and them And also by and out of the sd mos which shall come to the hands of him the sd C B as afd to retain pay and reimburse himself all costs chas and exps which he shall or may incur or which shall or may be occasioned to him in or about the affairs of him the sd A B And furr to place out or invest all or any pt of such mos in the purchase of a share or shares of and in the public stocks or funds of Gt Britain or upon Govt securities in the name of him the sd A B and from time to time to alter vary and transfer the same and again to lay out and invest the same in the purchase of other stocks funds and securities of the same or the like nature as he the sd C B shall think most for the benefit of the sd A B And also for the sd A B and in his name to sign seal and deliver any deed covt or instrmt in writing whatsr which shall appear to the sd C B for the benefit of the sd A B or requisite to be done by him concerning the same debts or any or. affair whatr And also to exonerate and discharge all and evy or any of

(a) An express power necessary in such cases, see Pref. § 1.

the estates of the sd A B which now or hereafter may be in mortgage to any person or persons whomsoever of and from all equity of redemption to which the same now are or hereafter may be subject as to the sd C B shall appear release or requisite and either with or without any consent for the same equity of redemption And also to join with the trustee or trustees for the time being in making or extending any mortgage or mortgages of all or any part of the lands and real estate of the sd A B as occasion may require and in receiving and giving discharges for the mortgages to be taken upon the security of the same mortgages and when and as occasion shall serve in redeeming the same and in entering into covenants for the payment of the mortgage money as he the sd C B shall think fit And also to join with the trustee or trustees as aforesaid in making sale or disposition of any of the messes or tenements lands and hereditaments of the sd A B whatsoever and also in giving and signing all such receipts and extending all such releases assignments conveyances and assurances and entering into such covenants as to the sd C B shall seem meet And also to carry into effect and perform all agreements and contracts entered into by the sd A B with any person or persons whomsoever And also one or more attorney or attorneys under the sd C B for all or any of the purposes aforesaid to make nominate or appoint as occasion may serve And also generally to do all such other matters and things for him the sd A B or in his behalf in and about the premises in every respect as he the sd A B might or could do if he were personally present he the sd A B agreeing to ratify, &c. And the sd A B doth hereby direct that all payments which shall be made to his sd attorney or attorneys by any person or persons before he she or they shall have notice of his death or revocation of the authority hereby given shall be binding on his heirs executors or administrators notwithstanding his death or revocation of such authority before such payments shall be made to the sd C B

In Witness, &c.

Power of Attorney to demand Rent, and on Default of Payment to Re-enter.

Obs. As to the stamp, see Pref. § 5.

Know all, &c. That I, A B of, &c. Have made, &c. C D of, &c. my, &c. to demand and receive of and from J L of, &c. on the day next after the feast of, &c. next coming at commonly called or known by the name of situate, &c. the sum of £ — of lawful, &c. which will become due unto me the sd A B from the sd J L at the sd feast day before mentioned for one half year's rent for the sd messuage farm and lands with their appurtenances which

General.

To join with trustees in making mortgages, &c.

To carry the contracts of principal into effect.

Also to appoint other attorneys.

As to the death of A B.

To demand rent and re-enter.

To by an indre of lease bearing date the day of in
Distrain. the yr, &c. were by me the sd A B demised unto the sd
 J L for a certain term of yrs And in deft of pay-
 ment of the sd sum of £ — I give and grant unto my
 sd atty full power and authty to enter into and upon the
 sd messe, &c. and preses by the before-mentd indre of
 lease demised and thereof for me and in my name stead
 and place to take possession to the intent that the indre
 of lease may become void according to a certain provo
 thin-contd And furr to exte and perform all things
 requisite and necessary to be done in and about the exon
 of these prests I ratifying, &c. and agreeing to ratify,
 &c. *In Witness, &c.*

Power of Attorney to Distrain.

Obs. As to the stamp, see Pref. § 3.

Know all, &c. That I, A B of, &c. widow relict and
 administratrix of C B late of, &c. decd for divers good
 causes, &c. Have made, &c. and by, &c. *Do make, &c.*
 C D of, &c. and E F of, &c. jtly and sevlly my true and
 lful atty and atties for me and in my name place or stead
 jtly or sevlly to rece of and from the sd C D, &c. their
 under tenants agents or ass or of and from whomsr else
 it doth or may concern and of and from all or. tenants
 and occupiers of certain pces or pcls of ld situate, &c. and
 which were heretofore demised by W B decd the father
 of the late C B by certain indres of lease bearing date
 resply the day of and the day of, &c. at and under
 the yrly rents or sums in all the sd leases reserved and
 on which sd pces or pcls of grd or on pt thereof furr
 messes or tents have been built now or lately in the oc-
 cupation of K F, G P, S E and W S their under tenants
 or ass all sums of money which now are or shall or may
 at any time or times hrafrt grow due and paye from and
 out of the sd preses for such rent as afd and upon non-
 payment thereof or of any pt thereof for me and in my
 name and for my use as administratrix to enter into or
 upon the sd preses or any pt thereof and to seize and
 distrain all or any goods or chattels that shall be then
 and there found or to make such distress off the preses
 as the law permits and such distresses so to be made as
 afd to take carry away and detain until paymt of such
 rent so in arrear as afd shall be faithfully made and the
 same shall be delivered in due course of law and on
 nonpaymt thereof to sell and dispose of the same ac-
 cording to law or to commence and prosecute any action
 suit bill plaint avowry or information or to take all such

or. lful ways and means for the recovery thereof and the same to discontinue adjust rele and discharge as to my sd atty shall seem meet and as the case shall require and on rect thereof or of any pt thereof rects reles and or. good and sufficient acquittances and discharges in the law to make and give for the same And also for me and in my name as administratrix as afd to settle and adjust all accts for ground rent and land tax and to pay all such sums of money as shall from time to time appear to be justly due and owing from and out of the sd rent to, &c. his steward agent or ass or whomsr else it shall or may concern under and by virtue of a certain derivative lease by him thereof granted to the sd W B by indre bearing date, &c. and to take and rece such rects and acquittances for the same as the case shall require And generally for me and in my name to do and perform or cause or procure to be done and performed all and whatsr shall be requisite in the preses I the sd A B hby giving and granting to my sd atty my full and whole power and authty herein and hby covenanting to allow ratify and confirm all and whatsr he shall or may lfully do or cause to be done therein by virtue of these prests In Witness, &c.

To
Recover
Debts.

Power of Attorney to recover Debts and execute Deeds.

Obs. As to the stamp, see Pref. § 3.

Know all Men by these prests That I, M P of, &c. for divers good causes, &c. Have made, &c. and by these prests Do make, &c. A L of, &c. my true, &c. for me in my name and for my sole use and bent to bring to acct and reckoning and to ask demand sue for levy recover and rece of and from all or any psn or pens whomsr and wheresoever All and evy sum and sums of money whatsr which they or any of them shall or may be any ways indebted unto me on any acct whatsr or of any pts or pt thereof for me in my name and to my use such good and sufficient rects reles and discharges to make and give for the same as the nature of the case shall require and to liquidate adjust compound arbitrate rele and discharge the same and on neglect or refusal from or by any such psn or pens to pay all or any such sums of money so due and owing unto me as afd to take and use all such usual and customary legal ways and means for compelling or securing the due payment thof by action suit attachment or orwise howsr in my name as my sd atty shall be advised and for me and in my name to prosecute and defend all or any actions or suits

To recover
debts.

Prosecute
or defend
actions.

To
Execute
Deeds.

either at law or in equity now brought or to be brought or commenced by for or agst me in any court or courts of judicature in England and therein to proceed to judgment and exon thereon or to discontinue or compromise the same as my sd atty shall be advised and to enter up satisfaction on record in any or either of the sd courts or to do any or. act matter or thing which shall be required and necessary to be done on my pt and behalf in the proceedings of carrying on or defending any such action or suit so brought or to be brought as afd And also for me and for my use to defray pay and discharge all sums of money debts dues claims and demands which shall or may be justly due and owing from or accrue agst me to any pson or psons whomsr on any acct whatsr and to take and rece for the same such rect acquittances and dischas as the case may require and also for me in my name and to and for my use and bent to do transact exte and perform all and whatsr or. acts deeds bonds of arbitration deeds of composition bankrupts' certificates reles assnmts matters and things which shall or may be necessary to be done in and about touching or concerning the management of my affairs or any of them or in any manner relative thereto and generally for me in my name and to my use to do perform and exte all and whatsr or. acts matters and things which my sd atty shall judge requisite and necessary or be advised to be done in and about the preses as fully and effectually to all intents and purps as if I myself were present and did the same I the sd M P ratifying and allowing and hby covenanting and agreeing for myself my hrs exs and ads to ratify allow and confirm as good and valid all and whatsr my sd atty shall lfully do or cause to be done in and about the preses by virtue of these prests In Witness, &c.

To execute
deeds.

Power of Attorney to execute Deeds Generally.

Know all Men by these Prests That we A B of, &c. and C B of, &c. for divers good causes, &c. Have made, &c. DC of, &c. our true, &c. to and for our use to receive of and from the sd G H the sd sum of £ — so agrd to be pd by him to us as afd and upon rect thof acquittances and or. dischas for us, &c. and for us and in our own names or in his own name as atty for us to sign seal and as his or our act and deed to deliver any deed assignment release or or. instrumt in writg as the counsel of the sd G H shall advise of all such part of the share or residue of the sd testator's este so directed to be placed out at int by his exs as afd as shall at any time hrafr become

due to us by the dece of the sd his wife witht issue
 or by the dece of such issue under age as afd or orwise
 howsr giving and hby granting unto our sd atty full
 power and agreeing to ratify confirm and allow all,
 &c. *In Witness, &c.* To
 Execute
 Deeds, &c.

*Power of Attorney to execute a Deed of Conveyance
 and a Trust Deed.*

To all, &c. (*appointors*) of, &c. who with A M are the
 assignees duly chosen of the effects of A S and I S of, &c.
 bankers agst whom a fiat of bankruptcy hath been lately
 awarded sevilly send greeting *Whas* (recite sale of certain
 estates belonging to the bankrupts) *And whas* by an indre
 already prepared and agrd to be dated the day of
 and made betn the sd (*appointors*) assignees as afd
 of the one pt and (*trustees*) of, &c. trustees and creditors
 of the sd (*B*) named by and on behalf of all the or. cre-
 ditors of the sd (*B*) on the or. pt It is witnessed and
 decl'd by and betn all the pties hereto that the sd (*T*)
 their exs ads and ass shall stand and be possessed of and
 interested in the sum of £ — being the purchase money
 for the sd preses and heredit in the first recited indre
 mentd and described and the int (if any) for the same
Upon Trust in the first place thereof to pay the costs
 chas and exps of preparing the sd now reciting indre
 and the sevl or. costs chas and exps therein mentd And
 in the next place thereof to pay the sd (*A*) assignees
 as afd their exs ads and ass the sum of £ — and to
 apply the ultimate surplus upon the trusts and in man-
 ner therein mentd *And whas* the sd in pt recited indres
 have been exted by the pties of the second pt but not
 by the pties of the first pt And the sd pties of the first
 pt being resply acquainted with the contents of the sd
 indres and approving of the same and of the arrange-
 ment thby agrd or intended to be made so far as they
 are resply interested are desirous and have agrd to exte
 and confirm the same *Now know ye* and these prests
 witness That the sd (*appointors*) *Have* and evy of them
Hath made, &c. the sd A M to be the true and lful atty
 of and for them and each and evy of them and in their
 and each of their names to sign seal and as their acts
 and deeds to deliver the sd in pt recited indres And to
 make do and exte evy or. act deed matter and thing
 necessary to give effect to the same so far as the same
 pties hereto are resply interested And also in the
 names of them the sd (*appointors*) or any of them jtly
 with the sd A M to rece the sd sum of £ — or any pt

To Act as thereof and to give and sign acquittances and discharges
Executor, for the same *In Witness, &c.*
 &c.

*Power of Attorney to execute a Deed of Composition
 and receive a Dividend.*

Know, &c. That I, A B of, &c. Have made, &c. C D
of, &c. my true, &c. to sign seal and exte an indre tri-
partite bearing date, &c. made or mentd to be made,
&c. betn (trustees) crs of (debtor) of, &c. and trustees
for and on the behalf of or. the crs of the sd (D) of the
first pt (creditors) crs also of the sd (D) of the second
pt and the sd (D) of the third pt And also for me and
in my name and to and for my proper use and behoof
to demand and rece of and from the sd (T) either or
any of them all mos due and paye to me upon and by
virtue of the sd indre as well for my share and divd of
the sum of £ — already recd by and in the hands of
the sd (T) some or one of them of the este of the sd
(D) as of the sum of £ — of the debts of the sd (C)
yet outstanding and unreceived or of so much thereof
as shall be recovered and recd in proportion to the debt
of £ — owing to me by the sd (D) And I do hby give,
&c. to my sd atty my whole power, &c. and authty in
the preses to do and perform all matters and things for
the recovering and receiving of the mos due or which
shall become paye to me by virtue of the sd indre as
fully as I might, &c. And I do hby ratify, &c. and
undertake and promise to ratify, &c. In Witness, &c.

*Power of Attorney from one Executor and Trustee to
 others to act in his Absence.*

To all, &c. Whas (recite will) And whas the sd
A W departed this life on or about, &c. witht having
revoked or altered his sd last will and testament in all
or any of the matters afd and since his death the sd (E)
have all duly proved his sd will in the prerogative court,
&c. And whas the sd A B is about shortly to depart
from for and is desirous of enabling so far as
he lfully may the sd or. exrs and trustees of the sd tes-
tator to act in the exon of the trusts of the sd will and
in the management and conduct of the este and affairs
of the sd testator during his absence as fully and effectually
as if he the sd A B were present Now, &c. that for
the purps afd he the sd A B Hath made, &c. the sd (E)
and the survivor and survivors of them to be his true, &c.
atties in his name and on his behalf as one of the trustees

and exrs of the sd will of the sd testator to transact manage and negotiate all and singr the matters and things whatr which in anywise relate to or concern the execution of the sd trusts or the management disposal and conduct of the este and affairs of the sd testator and to that end for him the sd A B and in his name and on his behalf to settle and sign and also if necessary to seal and as his act and deed in due form of law to deliver all and evy act and acts releases rectis acquittances deeds writings and instrmts whatr which shall or may be or to them the sd (E) or the survor, &c. shall seem necessary and expedient for that purpe and generally to exte and perform or cause, &c. all such acts deeds matters and things whatr as shall be anywise necessary and expedient to be done by or on behalf of the sd A B in or about the exon of the trusts afd or any of them And all whatever his sd atties shall do or cause to be done in pursuance of the power hby granted he the sd A B doth hby and at all times hrafr shall and-will ratify confirm and allow *In Witness, &c.*

*To
receive
and give
Possession*

Powers of Attorney to receive and give Possession.

This Indre, &c. Betn the Master and Brethren, &c. of the first pt (*lessee*) of, &c. of the second pt (*attornies for the lessors*) of, &c. of the third pt and (*atty for the lessee*) of, &c. of the fourth pt *Witnesseth* That for and in conson of the lful surrender to the sd (*lessors*) of a lease bearing date, &c. and made betn, &c. being a lease made and granted by the sd (*lessors*) to the sd (*lessee*) his hrs and ass for the three lives therein-named and for and during the natl life of the longest liver of them of the close lds and hereds hnafr described and intended to be hby granted and demised And also in conson of a certain fine foregift or sum of £ — they the sd (*lessors*) Have made, &c. the sd (*atties*) to be their true, &c. atties for them and in their names and place jtly or either of them sevlly for them the sd (*lessors*) to enter into and upon the sd hby granted and demised preses or any pt thof in the name of the whole and thereof to take peaceable and quiet posson and seisin and after peaceable and quiet posson and seisin so had and taken for them and in their names to deliver peaceable and quiet posson and seisiu of and in the sd preses or any pt and pcl thof in the name of the whole unto the sd (*lessee*) his hrs or ass or his certain atty in that behalf fully authorized and duly apptd to rece the same And the sd (*lessors*) do hby ratify allow and confirm all and whatr, &c. *And this Indre furr Witnesseth* That the sd (*lessee*)

POWERS OF ATTORNEY.

To receive Dividends *Hath made, &c. the sd (atty) his true, &c. in his name and place, &c. to enter into the sd hby granted and demised preses or any pt thereof in the name of the whole of and from the sd (attornies) in that behalf legally authorized and duly apptd to deliver the same and the sd (lessee) doth hby ratify, &c. In Witness, &c.*

Power of Attorney to receive Dividends and sell Shares in the Commercial Dock Company.

Know, &c. That I, A B of, &c. Have made, &c. C D of, &c. for me, &c. in my name or in the name of him the sd C D as he shall be advised or think proper to ask demand sue for recover and rece of and from compy or any psn or psns who is are or shall be authorized or liable to pay the same the divds int and produce now due and paye and all divds int and produce thenceforth to become due and paye upon or in respect of the shares of me the sd A B of and in the sd compy or in respect of such shares as I shall from time to time be possessed of or entitled to and as the same divds int and produce shall become due and paye and upon paymt or rect of the divds int and produce or any pt thereof to give acquittances and discharges for the same And upon non-paymt thereof to bring and commence any action or process at law or in equity for the recovery thereof and to prosecute or discontinue the same or orwise to act therein as the sd C D shall think fit And also for me and in my name or in the name of the sd C D to make sale and dispose of all or any of the shares of me the sd A B to any psn or psns who shall be willing to purchase the same resply or any of them for such prices or sums of money as the sd C D shall think proper so nevas that such sales be made in conformity to the rules and regulations of the sd compy and upon rect of the money to arise by such sales to the purchaser or respive purchasers thereof to give effectual releases and dischas And to make and exte evy or. act matter and thing which shall be requisite for effectunting and completing such sales as I the sd A B could do if I did and exted the same myself I the sd A B hby giving and granting unto the sd C D my full power and authty in the preses and hby agreeing to ratify, &c. In Witness, &c.

Another, to receive a Legacy.

To All, &c. Whas F C late of, &c. by her last will and testament bearing date, &c. did give and bequeath

unto me A B the sum of £ — to be pd unto me upon my sealing and delivering a general release to the executor of the sd F C And whas the sd F C shortly after died witht revoking her sd will and the same was proved by H C as her executor named in the sd will And whas I have signed such general rele to be delivered to the sd H C as hnaft is mentd Now, &c. That I the sd A B have made, &c. C D of, &c. my true, &c. for me, &c. to ask, &c. of and from the sd H C the sd legacy of £ — so given and bequeathed to me by the sd F C by her last sd will as aful and upon rect thereof by my sd atty to deliver the sd general release so sealed as aful I hby ratifying, &c. In Witness, &c.

To
Receive
Legacy.

Another, to receive the Distributive Share of an Intestate's Estate.

To all, &c. Whas my sister I B lately died intestate by means whereof and by virtue of the statutes made for the better distribution of intestate estates I am become legally entitled to a distributive share of my sd sister's personal estate Now, &c. That I the sd A B Have made, &c. C D of, &c. my true, &c. to ask for, &c. of and from D B administrator of the sd I B all my distributive share of the personal estate of my sd sister which I am by law entitled unto and all or. sums of money goods chattels and psl este whatsr which by my sd sister's dying intestate or on any or. acct belong or of right ought to belong to me And upon rect thof acquittances and or. legal dischas for me and in my name to give to the administrator of my sd sister for what my sd atty shall rece and to make any agrmt or composition for my sd distributive share of my sd sister's, &c. or for any or. matter or thing due to me from her este and whatsr my sd atty shall do or cause to be done in and about the preses I do hby ratify, &c. In Witness, &c.

Power of Attorney to receive Bank Stock and transfer the same.

Obs. As to the stamp, in this case, see Pref. § 3.

Know all, &c. That A B of, &c. and C his wife (daur and administratrix of all and singr the goods chattels rights and credits of D F decd) Have constituted, &c. H E of, &c. to be their true, &c. for them the sd A B and C his wife and for each of them and in their names place and stead and to the use of the sd A B to ask

To
Receive
Stock.

and rece all divds now due to the sd A B and C his wife or either of them from the Gov and Compy of the Bank of Engld and upon the rect thof or of any pt thereof acquittances or or. sufficient discharges to make and give for the same and also to assign and tranfer the sum of £ — in the bank stock and all and evy or. stock and stocks in the sd B of E which they the sd A B and C his wife or either of them have or hath or which she the sd C is entitled to as administratrix of the sd D F or orwise to the sd A B or to such or. psn or psns as the sd A B shall order and direct And furr to do exte and perform all and singr deeds acts, &c. touching and concerning the preses as fully, &c. as they, &c. and whatsr he the sd H E shall do, &c. In Witness, &c.

Another, to accept, pay for, and sell Bank Stock.

Know all, &c. That I, A B of, &c. Have made, &c. C D my true, &c. To accept of all such capital stock in the Bank of England as I the sd A B have already bought or contracted to buy or shall hrafr buy or contract to buy of any psn or psns whomsr upon the transferring thereof according to the usual manner of tranferring the sd stock and pay such sums of money or conson for the purchase of such capital stock upon the transferring thof from time to time as I shall in that behalf order and likewise for me and in my name to and for my own proper use to sell and transfer all or any such stock as I now have or shall buy or purchase in the sd Bk of Engld to such psn or psns and in such manner as I shall from time to time direct and appt by writing under my hand And also for my use to rece the mos or consons which shall become due and paye for or upon the sale of all or any such stock as he shall so sell or transfer for or on my acct as afd and to give sufficient discharges for the same And I do hby, &c. In Witness, &c.

Power of Attorney to receive a Share of Stock bequeathed, and to release Executors.

Recital of
bequest.

To all to whom, &c. J E of, &c. sends greeting Whas T E late of, &c. decd by his last will and testmt bearing date, &c. Did (amongst or. things) give and bequeath to his two sons J E pty hereto and T E the sum of £ — capital in the 3 per cent. consol. Bk Annties to be pd and paye to them resply in equal shares at and upon their respive ages of 21 yrs and in the mean time the int and divds thereof to be pd and

applied for and towards their maintenance and education And in case either of them should die before that age then he gave the same to the survivor of them And *whas* the sd T E hath attained his age of 21 yrs and hath recd of and from the hands of the sd exs his part and share and int of and in the sd capital sum of £ — And *whas* the sd J E hath lately attained his age of 21 yrs and is thby become entitled to so much of his equal part share and int of and in the sd capital sums as shall remain due to him after the payment and deduction to the sd exs of all and every sum and sums of money which they have advanced and pd for and on acct of his maintenance und education and or. necessary pecuniary supplies by them granted under and by virtue of the sevl and especial powers and authties in them vested and to them given in and by the sd in pt recited will and under and by virtue of sevl special dirons given by the sd J E under his hand to the sd exs since his attaining the sd age of 21 yrs Now Know ye That as well for the settling and adjusting all accts now depending betn the sd pties relative to the exon of the sd will as for receiving to the use of the sd J E all such balance as upon the final settlement shall appear to be due to the sd J E and also for releasing and discharging the sd exs he the sd J E Hath made, &c. and by these prests *Doth*, &c. and in his place and stead put the sd T E his true and lful atty for him in his name and to his use to settle and adjust with the sd exs all and evy acct and accts of all mos by them so disbursed as afd And also for him the sd J E to ask demand and by all lful ways and means to recover and rece of and from the sd exs all such balance as upon such settlemt of the sd accts shall appear to be justly due and owing or belonging unto him the sd J E or for him in his name and to his use to accept a transfer of such balance or capital sum in the proper bk or bks kept for that purpe at the Bank of Engld and on rect of such balance or acceptance of such tranfer for him the sd J E or in his the sd T E's own name as atty for the sd J E rects or or. good acquittances and discharges in the law to the sd exs to make seal and exte and give when tendered to him for that purpe so as that the sd exs may be as effectually and finally reld and discharged of from and agst all future claims or demands by or through the sd J E or any psn or psns claiming or to claim by from under or on acct of all his sd equal pt share and int of and in the sd capital sum of £ — so bequeathed as afd as if the sd J E were at the same time present and exted the same And generally for him

To
Receive
Stock.

T. E. attaining his age.

J. E. attaining his age.

To take Possession and in his name to do or cause to be done all or. lful acts deeds matters or things which shall or may be requisite to be done in and about the preses he the sd J E hbygiving to his sd atty his whole power and authty in the preses and hby ratifying allowing and confirming whatsr his atty shall lfully do or cause to be done in and about the preses by virtue of these prests
In Witness, &c.

Power of Attorney to act with others in the West Indies, or alone to take Possession and bring to Account, &c.

Obs. As to the stamp, see Pref. § 3.

Recital of power of attorney to a partner.

To all, &c. T D of, &c. sendeth greeting Whas by deed poll or letter of atty bearing date, &c. *Reciting* that the sd T D and I F of, &c. being jointly seised of or concerned in sevl tracts of ld or plantations in the province of P M therein parlarly set forth And that for the more effectual management of the sd estes the sd I F departed from England some time in the yr 18 duly authorized to act in the sevl concerns thereof and reciting that the sd I F had remitted no pt of the rents and prfts of the sd estes nor rendered any acct thereof He the sd T D did thby for the causes therein mentd authorize empower put and depute N P of, &c. and R P of, &c. or either of them for him and in his name to take and use all lful ways and means for the bringing the sd I F and all psns connected with him to account touching the business and concerns of the sd estes and plantations and also for him the sd T D and in his name to settle and adjust all accounts and contract and agree with any psn or psns whomsr for selling or demising his moiety or equal half pt of and in the sd estes and plantations and in his name to sign deeds and to demand and rece from the sd I F or any or. psn or psns who shall or may have been or then were in the posson or occupation of the sd sevl estes and plantations all rent and arrears of rent for the same and to give rects and to do transact and exte all matters and things of every nature kind and description with any psn or psns whomer relative to the sd estes and plantations and one or more atty or atties agent or agents under them or either of them to appt and generally to do, &c. as by reference to the sd deed poll will more fully appear *Now know ye* That for divers good causes and consons him hereunto especially moving he the sd T D *Hath* made, &c. and by, &c. *Doth* make, &c. C R now of London merchant but about to depart

To take Possession

on a voyage to Jamaica his true and lful atty for him and in his name place and stead to act jtly with the sd N P and R P in the management of all and evy the matters and things relative to the sd estes plantations and preses in such and in the same manner to all intents and purps as he the sd T D hath authorized and empowered them the sd N P and R P in and by virtue of the sd deed poll or letter of atty And in case it shall happen that at the time of C R's arrival at Jamaica either of them the sd N P or R P shall happen to be dead Then and in such case he the sd T D doth hby fully authorize and empower and in his place and stead put and depute the sd C R to act jtly or sevly with or witht the survor of them the sd N P and R P in the sd sevl matters and things in and by the sd in pt recited deed poll decl'd and in the sevl trusts thby in them reposed as afd And in case it shall happen that both the sd N P and R P shall be dead at such time of his the sd C R's arrival at Jamaica as afd Then the sd T D doth hby authorize and empower the sd C R for him in his name and to and for his use and bent to take posson of the sd sevl plantations and estes and preses and of the sevl edifices utensils and apts thereon and thereto belonging or in any wise appertaining and there out and from thence utterly to expel put out and amove all or. unful tenants holders or occupiers thereof or of any pt thereof and to revoke and annul all substitutions powers and authties which shall or may have been by them the sd atties afd given to any agent or agents overseers servts or ors. on the sd plantations or any of them and fresh powers to them or any psn or psns to make and grant for the purps afd And in all things whatsr to take and use all lful ways and means for bringing to acct and reckoning the sd I F and all and evy or. psn or psns whomsr deputed under them or whomsr else it shall or may concern and also all or any psn or psns any way indebted to the sd estes as afd as also to do all or. acts matters and things for the management of the sd estes and preses as shall or may be requisite and necessary and that as fully and amply to all intents and purps as he the sd T D hath heretofore by the sd in pt recited deed poll given and granted to and vested in the sd N P and R P And generally for him and in his name to do, &c. he the sd T D hby giving, &c. to the sd C R in conjunction with the sd N P or R P or witht as the case may require his full power and authty in the preses and hby ratifying, &c.

In Witness, &c.

*To sur-
render
Copy-
holds.*

*Power of Attorney to take Admittance of Copyhold Lands,
and after Admission to surrender.*

Obs. As to the stamp, see Pref. § 3.

*To all, &c. Whas R D and E his wife on the day
of which was in the yr of our Lord Did sur-
render into the hands of the lord of the manor of G in
the co. of S one close of ld called N containing, by
estimation acres being pcl of and one other
close, &c. to the use and behoof of A B and his hrs for
ever according to the custom of the sd manor Subject
never to a condition for making void the same if the sd
R D and E his wife shd pay unto the sd A B the sum
of £ — on a day long since past And whas the sd
surrender was made unto the sd A B In Trust for the
Dean and Chapter of, &c. and the mos thereupon lent
were the proper mos of the sd Dean and Chapter and
the condon of the sd surrender is not yet performed
Now, &c. That the sd A B in discharge and performance
of the trust so in him reposed as afd at the request and
by the direction of the sd Dean and Chapter as afd
Doth by these prests make, &c. C D of, &c. his, &c.
for him, &c. to receive have and take admittance of and
from the lord of the sd manor of C afd or his steward
of the court thereof in and to the sd sevl closes of ld
and preses before mentd with the apts according to
the custom of the manor afd and at any time after such
admittance so had and taken to surrender into the hands
of the lord of the sd manor all the sd sevl closes, &c.
to the use and behoof of such psn or psns and their hrs
as the sd Dean and Chapter shall nominate or appt
And furr to perform, &c. In Witness, &c.*

*Letter or Power of Attorney to two Copyholders to sur-
render Copyholds to the Uses of a Settlement.*

*To all, &c. Whas (recite settlement, or will de-
vising copyholds to be settled as freeholds) Now, &c.
that the sd A B and C D in performance of the trusts of
the sd will Have and each of them Hath made, &c. I L
of, &c. and N L of, &c. two of the customary tenants
of the manor of, &c. afd their and each of their true
and lful atties jtly or either of them severally by them-
selves or himself or togr with any or. psn or psns for
the consons and purps afd by a good and sufficient
surrender and surrenders to be ackngd in open ct or
orwise according to the custom of the manor of afd
to surrender into the hands of the ld of the sd manor
of All, &c. And the revn, &c. And all the este, &c.*

To the end and intent that the lord of the sd manor may grant the same to the uses hnafter mentd that is to say (here set out the uses) And to substitute and sign the same surrender in the name and names of the sd A B and C D or either of them or orwise and to acknge the same for them or either of them And generally to make, &c.

Substitution under a Power of Attorney.

Obs. As to the delegation of a power, see *Appointments*, Pref. § 13; as to the stamp, see Pref. § 3.

Know all Men by these Presents That we A B of, &c. and C D of, &c. in pursuance and by virtue of the powers invested in us by E F of, &c. by a certain deed poll bearing date the day of 18 Have substituted deputed and appointed and by, &c. Do substitute, &c. A K our true and lful attorney in our names as atties of the sd E F to sign and exte a certain deed, &c. (or do any other act specified in the power as the case may be) giving and by these prests granting unto the sd A K our full and whole derived power and authty in the preses in as ample a manner to all intents and purps as we have recd the same from the sd E F by the sd hnbefe in pt recited deed poll And generally to do perform and exte all and whatsr the sd A K shall judge necessary to be done for the purps afd we the sd A B and C D as well for the sd E F as for ourselves allowing and agreeing to allow all, &c.

PRESENTATIONS.

Obs. 1. Presentation is the offering a clerk by the patron of an advowson to the ordinary to be instituted, and is distinguished from nomination, which is the offering a clerk to the patron. By the Statute of Frauds, all presentations must be in writing, but they need not be by deed, 3 Cru. Dig. 13. As to when a presentation is void, see *Agreement for Sale of an Advowson*, vol. i. p. 57.

2. A presentation to any benefice of the yearly value of 10*l*. in the King's books, is charged with a stamp of 20*l*. and to any other benefice with a stamp of 10*l*. A nomination to a perpetual curacy is charged with a stamp of 1*l*. 10*s*.

To the Right Reverend Father in God by divine permission Lord Bishop of to his vicar-general in spirituals or to any or. psn or psns having or to have sufficient authty in this behalf A B of in the co. of esq. the true and undoubted patron of the rectory

PRESENTATIONS.

(or 'vicarage') and parish church of _____ in the co. of _____
and in your lordship's diocese of _____ greeting I
present to your lordship and to the rectory (or 'vicar-
age') and parish church of _____ afd now void by the
natural death (or 'resignation') of _____ the last incum-
- bent there and to my presentation in full right belong-
- ing my beloved in Christ C D of _____ bachelor of arts
humbly praying that your lordship would be graciously
pleased to admit and canonically to institute him the sd
C D to the rectory (or 'vicarage') and parish church of _____
afd to invest him with all and singr the rights
members and apts thereunto belonging to cause him to
be inducted into the real actual and corporeal posson thof
and to do all other things which to your pastoral office
may in this case appertain or belong In Witness, &c.

PROVISOS.

Obs. A proviso is a condition inserted in a deed, on the performance of which the validity of the deed depends; as a proviso for re-entry, for redemption, &c. To be a condition, it must be in the words of the grantor to compel the grantee to do something, and must stand by itself immediately after the *habendum*; *Lord Cromwell's Case*, 2 Co. 70. When it is in the words of the grantee to compel the grantor to the performance of any act, it is a covenant, and not a condition, 2 Co. 72, *Sheph. Touch.* 122. It is always inserted in deeds (see *Index*), and for the most part commences with the words 'Provided always,' or, 'these preste are upon this express condition,' which are the proper operative words.

*Proviso to exonerate Lands, &c. from an Annuity,
and to substitute others.*

Provided lastly and it is hby mutually dekl and agrd by and betn the sd H E and C E that in case the sd C E his hrs or ass shall at any time hrafr be minded and desirous to exonerate and discharge the sd manors messes, &c. and preses mentd to be hby relfd from the paymt of the sd annual sum or yrly rent-charge of £ — and to settle and substitute in the whole or in pt or lds tents or hereds of equal or greater value as a fund or secty for the due paymt of the sd annual sum or yrly rent-charge of £ — in lieu thereof Then and in such case if the sd C E his hrs or ass shall give or cause to be given to the sd H E or his ass a true and exact rental or parlar of the lds tents and hereds which he the sd C E shall be minded and desirous to settle and substitute in the whole or in pt in lieu of the hereds and preses

hby reld for securing the sd annnty of £ — and the future paymt thereof and shall then deliver or cause to be delivered to the sd H E and his ass an abstract of the title-deeds evidences and writings manifesting the title of the sd C E his hrs and ass to the fee simple and inheritance of the sd lds and hereditis specified in the sd parlar and do make it appear by all rease means to the counsel of the sd H E that he the sd C E his hrs or ass is or are well entitled thereto and have and hath full powers to settle assure charge and convey the same preses for the purps intended Then and in that case it shall and may be lful to and for the sd C E his hrs and ass at any time during the natural life of the sd H E by any deed or instrmt in writing and attested by two or more credible witnesses to revoke annul determine and make void the sevl uses hereinbefe limited expssd and decl'd of and concerning the sd manors lds and hereditis beforementd to be hby granted and reld or intended so to be so as he the sd C E his hrs and ass do and shall at the same time or immly before the sealing and delivry of such deed or instrmt in writing whby the sd uses in these prests decl'd shall be so revoked annulled determined and made void as afd by good and sufficient conveyances and assurances in the law effectually convey settle and assure the lds tents and hereditis which shall be specified in the sd parlars and the fee simple and inheritance thereof in posson free from incumbrances or such or. lds and hereditis as shall be accepted and agrd on by and betn the sd H E and his ass on the one pt and the sd C E his hrs and ass of the or. pt to the sevl uses and for the sevl intents and purps and under the provisos and agrts in and by these prests before decl'd of and concerning the manors, &c. mentioned to be hby reld so and in such manner as that the sd hereditis and preses which shall be mentd and specified in such new conveyance settlement and assurance be effectually charged and made chargeable with the due paymt of the sd annual sum or yrly rent-charge of £ — and the future paymt thereof to the sd H E and his ass and that he and they may have and enjoy the same powers and remedies by distress and entry for the recovery thereof and that a like term of yrs may be limited to and to the use of (trustees) or the survivor of them his exs ads and ass *In Trust* for the further securing the sd annual sum or yrly rent-charge of £ — in the same manner to all intents and purps as is provided and decl'd concerning the sd term of yrs hby limited in the preses hby reld or mentd, &c. And it is hby also agrd and decl'd that from and immly after such revocation and new settlement assu-

PROVISOS.

rance and conveyance shall be made and all arrears of the sd annual sum or yrly rent-charge then incurred being first discharged all and evy the manors lds tents, &c. hby granted, &c. or intended so to be shall from thenceforth for ever thereafter be freed exonerated acquitted and discharged of and from all and evy the uses trusts estes chas powers provos limitations and agrts in and by these prests limited expssd and declod of and concerning the same preses evy or any pt thereof And then and in that case the same heredit and preses shall be and remain and this present grant and rele as to the same heredit, &c. shall be and enure to the only use and behoof of the sd C E his hrs and ass for ever and to no or. use whatsr

Proviso to make void Limitations in a Will where Persons dispute the Validity thereof.

Provided always and I do hby declare my will to be that if any psn or psns to whom any este or int is given or limited by this my will shall in any court of law or equity or orwise controvert the same or dispute or call in question the validity thereof or of any of the estes limitations powers provisos or dispositions hby limited or given or made or herein contd Then and in such case the estes interests limitations, &c. so hby limited, &c. to or in favour of such psn or psns so controverting my sd will shall cease determine and be absolutely void to all intents and purps whatsr as if such psn or psns was or were naturally dead And then and from thenceforth such estes ints limitations powers provos and dispositions shall go and belong to and be vested in the psn or psns who by virtue of this my will shall be next in remr after the psn or psns so disputing as afd *Provided* he she or they shall not controvert or dispute the validity of this my will or any of the devises limitations powers provos or dispositions hereincontd or hby made

PURCHASE DEEDS.

What so called.

How to be made.

§ 1. Purchase deeds are properly those deeds by which corporeal and incorporeal hereditaments are conveyed. Before the Statute of Frauds, corporeal hereditaments which were said to lie in livery might have been transferred by verbal contract only, provided it was accompanied with livery of seisin; but incorporeal hereditaments, which were said to lie in grant, could be conveyed only by deed, 4 Cru. Dig. 10, 11. Now, neither can be conveyed without

a deed, or at least a note in writing, which in some cases is sufficient, (see *Lease, Partition, and Surrender*; also as to the distinction between parol agreements and deeds, see *Agreements*.)

2. As a general precedent of each mode of conveyance has been given in its proper place (see *Assignment, Bargain and Sale, Confirmation, Exchange, Feoffment, Gift, Grant, Partition, Release, and Surrender*;) the following observations and precedents relate to conveyances generally.

Modes of conveyance

3. Every person who gives or takes by his contract should be a party to the deed of conveyance. No one can take a present interest who is not a party, *Gilby v. Copley*, 3 Lev. 139, but he may take a future interest. In every well-made deed, it is necessary that the person making it be able to grant, and the person to whom it is made be able to take or hold. An alien may purchase, but he cannot hold; for upon office found the king shall have the land, Co. Litt. 2, *b*. So a person attainted of felony may purchase, but he can do so only for the benefit of the king. So corporations may purchase, but they cannot hold without a special licence from the king, *ib*. An infant may purchase, but he may waive or disagree to the purchase when he is of full age, *ib*. An infant may also convey, but, except in the case of settlements, (see *Settlements*) he may either affirm or avoid the deed, Co. Litt. 51, *b*. A feme covert may purchase, but her husband may disagree thereto; and although he agree to it, yet after his death she may waive the purchase. Generally speaking, deeds executed by femes covert, for the purpose of conveying away their estates, are not only voidable, but absolutely void, Co. Litt. 3 Park. 3, 8; except where a woman conveys property that is at her own absolute disposal, or conveys under a power. The queen consort is exempted from this rule, being able to grant and purchase without the king, Co. Litt. 3. By the 1 W. IV. c. 60 and 65, repealing, consolidating, and amending several former Acts, infant mortgagees and trustees are compellable to convey under the direction of the Court of Chancery or Exchequer; also infants, femes covert, and also lunatics and idiots, by their committees, are enabled to convey, grant leases, make surrenders for the sake of renewal, and other necessary acts under the direction of the Lord Chancellor or otherwise. And by the first of these Acts the Lord Chancellor is empowered to appoint a person to convey, in the place of a trustee who cannot be found.

Parties to the conveyance.

4. The parties to a deed should be regularly described by their proper Christian and sur names, profession, and place of residence; but a Dean and Chapter and mayor and commonalty may grant by the name of the corporation, without any addition. A name acquired by repute, as in the case of a bastard, will be good enough: and the word 'issue' is a good description in a deed, equivalent to child or children, Co. Litt. 3, *b*.

Description of parties.

5. Recitals in deeds, though not formerly much used, are now held to be of great importance, serving as a key to what follows afterwards, *Moore v. Magrath*, Cowp. 9. They likewise serve sometimes as evidences of a fact, as when it can be proved that a deed was actually executed and is lost, the recital of it in another deed is evidence of it, *Ford v. Grey*, 6 Mod. 44, S. C. 1 Salk. 285. (As to the importance of recitals in other deeds, see *Bonds*.)

Recitals.

6. After the recital comes the witnessing part, beginning with a statement of the consideration. Considerations are distinguished into valuable or good considerations. Money is a valuable consideration, as also marriage. A good consideration arises from a moral obligation, as that subsisting between a parent and a child, or

Witnessing part.

Voluntary conveyances.

the love which a man bears to his family. So the payment of a man's debts is deemed a good consideration, Fonbl. Eq. b. i. c. 5, s. 1. Where there is neither a valuable or good consideration, the conveyance is termed voluntary; which, as against creditors, is void by the 13 Eliz. c. 5; and, as against purchasers for a good and valuable consideration, are void by the 27 Eliz. c. 4; *Lord Townsend v. Windham*, 2 Ves. 10. So likewise conveyances for a good consideration, that is, in favor of a wife or children, are within these statutes, and are held to be fraudulent as against creditors and subsequent purchasers.

Granting part.
Operative words used by trustees, &c.

7. In the grant or release which follows, trustees and mortgagees are commonly made to convey without the word 'grant,' and to qualify their conveyance by the words, 'according to their respective estates and interests, and so far as they ought to do at law or in equity.' This is done from an apprehension that the word 'grant' implies a warranty, but this apprehension is said to be entirely groundless, Butl. Co. Litt. 384, a, 4 Cru. Dig. 52. After the description of the parcels, which cannot be too accurate and minute, 4 Cru. Dig. 281, usually follows the clause, 'All the estate, &c.;' but these are not to be considered as words of course, for if the grantor retains any portion of the estate, as in the transfer of a lease by granting an underlease, these words must not be used. After this is inserted the clause for the grant of title deeds; and although in general deeds follow the land, and a purchaser without such a clause is entitled to them, Co. Litt. 6, a, 1 Saund. 112, yet it is advisable in most cases to insert it, and in some cases it ought not to be omitted, as in conveyances to uses, where the deeds would otherwise pass to the releasees to uses, and not to the *cestui que trust*, 4 Cru. Dig. 288. The grant of the title deeds is usually followed by the clause of exception, if there be one, beginning with the words 'Except and always reserved out of these preats and the grant and conveyance hereby made or intended so to be all that messe, &c.'

Habendum.

8. After the grant follows the *habendum*, which serves to limit the estate granted; and may enlarge the gift in the premises, although it cannot abridge it, Co. Litt. 183, 2 Co. 23. Here the word 'premises,' signifying the things beforementioned, is for the first time regularly to be used, and not before. The *habendum* is followed by the clause of warranty, the use of which, except in feoffments, is now superseded by that of covenants for title. The covenants usually entered by a vendor in fee are, First, That he is seised in fee; Secondly, That he has good right to convey; Thirdly, For quiet enjoyment by the purchaser and his heirs; Fourthly, That the lands are free from incumbrances; and lastly, For further assurance. Where a vendor has only a power of appointment, the first covenant ought to be that the power was well created and is subsisting, then follow the other covenants as before, Sugd. V. and P. 541, 6th ed. Covenants for title are usually qualified or restricted to the acts of the vendor, or those claiming under him, but they must be so expressed as to be clearly restrictive, or the courts will not construe them as such, *Howel v. Hutchinson*, 11 E. 533. The omission of the usual words, 'for and notwithstanding any act by him done to the contrary,' was held to be decisive that the covenant was general, and not restrained to the acts of the vendor, *Hesse v. Stevenson*, 3 B. and P. 565. Where a vendor takes by descent, he usually covenants against his own acts and those of his ancestor, *Browning v. Wright*, 2 B. and P. 22. Where he is entitled by devise, it is usual for him to covenant against the acts of the deviser as well as his own, *ib.* Where he claims immediately under the person who bought the estate, then he need not covenant further back than from that person, *ib.* A general covenant for

Covenants by vendor.

quiet enjoyment is now held not to extend to the wrongful acts of strangers, 2 Saund. 178; but where a person covenants to defend a purchaser against the acts of a particular person, he is bound to do so, whether the party enters by right or by wrong, Cro. Eliz. 212. Hob. 34. Vaugh. 118. Freem. 194. These covenants are real, and pass to all the assignees of the land, 1 Roll. Abr. 521. Trustees, mortgagees, and executors, are not required to covenant further than against their own acts and incumbrances. *Cestui que trusts* are entitled to the benefit of covenants entered into by persons selling the land, Sugd. V. and P. 409. Where the deeds cannot be delivered up, it is usual to insert a covenant to produce the title deeds: sometimes it is most convenient to enter into this covenant by a separate deed, *Berry v. Young*, 2 Esp. 640. (n.) Sugd. V. and P. 468. 8th ed.

Freeholds
by Ap-
pointment
and
Release.

Covenant
for produc-
tion of title-
deeds.

Stamp.

9. By the 55 G. III. c. 184, the principal or only deed or instrument in a conveyance with an *ad valorem* duty on the purchase or consideration money, when it is under 20*l.* the duty of 10*s.*; from 20*l.* to 50*l.*, 1*l.*; from 50*l.* to 150*l.*, 1*l.* 10*s.*; from 150*l.* to 300*l.*, 2*l.*; from 300*l.* to 500*l.*, 3*l.*; from 500*l.* to 750*l.*, 6*l.*; from 750*l.* to 1000*l.*, 9*l.*; from 1000*l.* to 2000*l.*, 12*l.*; from 2000*l.* to 3000*l.*, 25*l.*; from 3000*l.* to 4000*l.*, 35*l.*; from 4000*l.* to 5000*l.*, 45*l.*; from 5000*l.* to 6000*l.*, 55*l.*; from 6000*l.* to 7000*l.*, 65*l.*; from 7000*l.* to 8000*l.*, 75*l.*; from 8000*l.* to 9000*l.*, 85*l.*; from 9000*l.* to 10,000*l.*, 95*l.*; from 10,000*l.* to 12,500*l.*, 110*l.*; from 12,500*l.* to 15,000*l.*, 130*l.*; from 15,000*l.* to 20,000*l.*, 170*l.*; from 20,000*l.* to 30,000*l.*, 240*l.*; from 30,000*l.* to 40,000*l.*, 350*l.*; from 40,000*l.* to 50,000*l.*, 450*l.*; from 50,000*l.* to 60,000*l.*, 550*l.*; from 60,000*l.* to 80,000*l.*, 650*l.*; from 80,000*l.* to 100,000*l.*, 800*l.*; and for 100,000*l.* and upwards, 1000*l.* A deed of feoffment, or a bargain and sale enrolled, if not accompanied with a lease and release, is chargeable with a further duty of 10*s.* when the consideration money is under 20*l.*; 15*s.* for 20*l.* to 50*l.*; 1*l.* for 50*l.* to 150*l.*; and 1*l.* 15*s.* for 150*l.* and upwards. Where there is both a feoffment and bargain sale, the further duty does not attach. Where lands of different tenures are sold together at one price, the purchase money may be divided or apportioned as the parties think fit, so that a distinct price or consideration be set forth in or upon the principal deed or instrument. As to which is the principal deed, see *Releases*, Pref. § 6.

Conveyance by Appointment and Release from a Vendor to a Purchaser.

This Indre male, &c. Betn (vendor) of, &c. of the first pt (trustee for vendor) of, &c. of the second pt and (purchaser) of, &c. of the third pt Whas by indres of lease and rele bearing date resply on or about the day of 18 the rele being made betn, &c. the messes or tents lds and heredts hnafr described and intended to be hby apptd and reld with their appts were [amongst or. heredts therein mentd] conveyed and as-sured to such uses upon such trusts and in such manner as the sd (V) by any deed or deeds instint or instrmts in writg to be by him sealed and delivered in the presence of and attested by two or more credible witnesses should from time to time direct limit and appt and in deft of and until such direction limitation and apptmt To the

*Freeholds
by Ap-
pointment
and
Release.*

use of the sd (*V*) and his ass during the term of his natural life witht impeachmt of waste And after the determination, &c. (see *Dower*, vol. ii. p. 73.) And whas the sd (*P*) hath contracted with the sd (*V*) for the absolute purchase of the messes or tents lds and heredts hnaft described and the inhance thof in fee simple free from incumbrances at or for the price or sum of £ — Now this *Indre Witnesseth* That in conson of the sum of £ — of, &c. to the sd (*V*) in, &c. by the sd (*P*) at, &c. the rect whof and that the same is in full, &c. He the sd (*V*) in pursuance of the power and authty given and reserved to him in and by the sd recited indre of rele and of all and evy or. power and authty to him belonging or in him vested or in anywise enabling him in this behalf Hath directed limited and apptd and also granted bargained sold aliened released and confirmed and by this present deed in writing by him sealed and delivered in the presence of and attested by the two credible witnesses whose names are indorsed as witnesses thereto Doth direct limit and appt and also grant bargain sell alien release and confirm unto the sd (*P*) (in his actual possession, &c. see *Releases*, *Gen. Prec.*) and to his hrs, &c. *All those*, &c. *To Have*, &c. (see *Releases*) And the sd (*V*) for himself, his hrs exs and ads doth hby covt promise and agree with and to the sd (*P*) his hrs and ass in manner following that is to say that for and notwithstanding any act deed matter or thing whatsr at any time heretofore made done committed exted or suffered by him the sd (*V*) the sd power of apptmt in or by the sd in pt recited indre of rele contained given and reserved to the sd (*V*) so far as the same relates to or concerns the several heredts and preses hnbefe apptd and reld or orwise assured or intended so to be is now at the time of the sealing and delivery of these prests a good valid effectual and subsisting power in the law and that the same hath not at any time heretofore been exercised or in any manner altered revoked repealed extinguished or suspended by him the sd (*V*) and that for, &c. he the sd (*V*) hath in himself good right full power and lful and absolute authty to direct limit appoint grant release and convey the sd messes, &c. and preses hby reld or orwise assured or intended so to be with their appts To the uses and in manner afd and according to the true intent and meaning of these prests (*a*) And that it shall, &c. (see *Releases*)

In Witness, &c.

(a) If further uses are to be declared, say, 'to the uses hnaft limited and expsd of and concerning the same.'

*Conveyance to a Purchaser, from a Man and his Wife
and a Mortgagee for a Term. (Old Form.)*

Obs. For variations, where it is to bar dower, in the new form, see *Dower*, vol. ii. p. 75; and also, where the acknowledgment of the deed by the wife is necessary, under the new law, see *Fines and Recoveries*, Pref. § 7.

This Indre, &c. Betn (vndor) of, &c. and M his wife of the first pt (mortgagee) of, &c. of the second pt (purchaser) of, &c. of the third pt and (trustees) of, &c. of the fourth pt Whas (recite will, where estates were devised in fee to the wife, see Index) And whas (recite death of testator and probate of will, see Index) And whas (a) by an indre bearing date on or about the day of and made or expsd to be made betn the sd (V) and M his wife and the sd (M) It is witnessed that in conson of the sum of £ — to the sd (V) pd by the sd (M) he the sd (V) did grant and demise unto the sd (M) his exs ads and ass All, &c. To Hold the same unto the sd (M) his exs, &c. for the term of 500 yrs from thence next ensuing Subject nevss to a proviso for the redemption of the sd heredit and preses [or, 'for making void the same term'] on paymt by the sd (V) or M his wife or their hrs, &c. unto the sd (M) his exs, &c. of the sd sum of £ — and int as therein is mentd [And whas the sd (V) and M his wife did in or as of term acknge and levy in due form of law before his Majesty's Justices of the Ct of C. P. at Westminster one fine, &c. unto the sd (P) and his hrs of the messes, &c. devised to the sd M by the will of the sd (testator) decd and hnaft parlarly described and intended to be hby granted and reld or orwise assured and proclamations have been made on such fine but no use or uses have yet been decld thereof as far as respects the sd messes, &c.] And whas (recite contract for purchase) And upon the treaty for the sd purchase it was agrd that the sd sum of £ — due and owing to the sd (mortgagee) upon or by virtue of the sd recited secty shd be pd to him the sd (mortgagee) by and out of the sd purchase-money Now this Indre Witnesseth That in consideration of the sum of £ — of, &c. (pt of the sd

Recitals.

Will.

Mortgage
by demise.

Fine levied.

Contract
for purchase.

(a) If it were a mortgage in fee, then say, '*And whas by indres of lease and rele bearing date resply the and days of and made, &c. In conson of the sum of £ — to the sd (V) &c. pd, &c. he the sd (V) did grant and rele unto the sd (M) his hrs and ass All, &c. To Hold the same unto and to the use of the sd (M) his hrs and ass for ever Subject to the provo for redemption on payment, &c.*'

Freeholds purchase-money or sum of £ —) to the sd (*mortgagee*)
by in and by the sd (*P*) at or before, &c. at the request
Husband and by the direction of the sd (*V*) testified, &c. in full
and Wife. for all principal and int now due and owing to the sd
 (*M*) upon and by virtue of the sd secty made to the sd
 (*M*) And also in conson of the sum of £ — of like, &c.
 (being the remaining pt of the sd, &c.) to the sd (*V*)
 in and by the sd (*P*) at, &c. they the sd (*V*) and *M*
 his wife *Have* and each of them *Hath* granted bargained
 sold reld and confirmed and by, &c. *Do* and each
 of them *Doth* grant, &c. unto the sd (*P*) [in his actual
 posson, &c. see *Releases, Gen. Prec.*] and to his hrs and
 ass *All those*, &c. and all houses, &c. (see *Releases,*
Gen. Prec.) And the revn, &c. And all the este, &c. of
 him the sd (*V*) and *M* his wife and each of them into
 and out of the same hereds and preses and every pt thof
 togr with all deeds, &c. *To Have*, &c. the sd messes,
 &c. unto the sd (*P*) his hrs and ass nevns to the use of
 such psn or psns for such este and estes int or ints and
 to and for such intents and purps and subject to such
 powers provos declons and agrmts or witht being so
 subject and in such manner and form as he the sd (*P*)
 by any deed or deeds instrmt or instrmts writing or
 wrtings with or witht power of revocation or new
 apptmts sealed and delivered by him in the presence of
 and attested by, &c. shall, &c. And in deft of and until
 such direction limitation or apptmt and as to such
 pt or pts of the sd preses of which no such direction
 limiton or apptmt shall be made or to which any such
 direction, &c. shall not extend *To the use of the sd (P)*
 his hrs and ass during the term of his natural life witht
 impeachment of waste And from and after the deter-
 mination of that este by any means in his lifetime *To*
the use of the sd (T) his hrs and ass during the life of
 the sd (*P*) *in trust* for him and his ass and to the intent
 that no wife of the sd (*P*) may be entitled to dower
 and from and after the determination of all the uses
 and estes hnbeft limited then *To the use of the sd (P)*
 his hrs and ass for ever And it is hby decld and agrd
 by and betn the pties to these prests that the sd fine or
 fines recovery or recoveries conveyances and assurances
 heretofore had ackngd levied suffered and exted of the
 sd messes or tents hereds and preses hby granted and
 reld or orwise assured or intended so to be or any of
 them or any pt thof shall be and enure and shall be
 judged deemed construed and taken to be and enure
To the uses hinbefe limited and decld of and concerning
 the same and to and for no or, use intent or purpe whatsr
 And the sd (*V*) for himself, &c. doth covt, &c. with the

sd (P) his hrs apptees and ass in manner, &c. (see *Release*) that for, &c. any act, &c. by them the sd (V) and M his wife or either of them or by the sd (M) made, &c. to the contrary they the sd (V) and M his wife are or one of them is lfully, &c. (see *Release*) And that for, &c. (have good right to convey) *And furr* that it shall, &c. be lful, &c. for the sd (P) his hrs apptees and ass from time to time, &c. quietly, &c. to have, &c. witht any let, &c. of or from the sd (V) and M his wife or either of them or of and from the sd (M) or any or. psns claiming or to claim by from or under them or any of them And that free, &c. from, &c. gifts grants, &c. and incumbs whatsr had made, &c. by the sd (V) and M his wife or either of them or by the sd (M) or any or. psn claiming, &c. *And moreover* that the sd (V) and all and evy or. psn having or lfully or equitably claiming any este, &c. in, &c. the sd messes, &c. hby reld, &c. or any pt thof by from through or under them the sd (V) and M his wife or either of them or the sd (M) shall, &c. at the rease request and at the proper costs and chas in the law of the sd (P) his apptees hrs and ass make, &c. (see *Release*) *And this Indre furr Witnesseth* that in conson of the sum of £ — pd by the sd (P) to the sd (M) as afd He the sd (M) at the request and by the direction of the sd (V) and (P) testified, &c. *Hath* bargained sold assigned transferred and set over and by, &c. the sd messes, &c. hby granted, &c. or such pt or pts thof as are comprised in the sd term of yrs or demised in and by the sd recited indre of the day of as afd with their apts And all the este, &c. to the intent that the sd term of yrs may be merged and consolidated with the freehold and inhance of the same preses therein comprised and to and for no or. use or intent whatsr And the sd (M) for himself, &c. doth hby covt, &c. with and to the sd (P) his hrs appointees and ass that he, &c. (hath done no act to encumber, &c.) *In Witness, &c.*

*Freeholds
by
Husband
and Wife.*

*Further
testatum.*

*Assign-
ment of
term.*

*Conveyance from Trustees under a Marriage Settlement,
in Pursuance of a Power of Revocation reserved therein
to a Purchaser.*

Obs. As to the acknowledgment of this deed by the wife, see *Fines and Recoveries*, Pref. § 7.

This Indre, made, &c. betn (trustees) of the first pt (cestui que trust) of the second pt and (purchaser) of the third pt *Whas* by indres of lease and rele bearing date resply the and the days of the rele being

*Recital of
settlement
containing
power of
sale and
revocation.*

Freeholds of parts and made or expssed to be made betn, &c.
by (or, ' betn (*intended husband*) of, &c. of the first pt the
Trustees. sd (*intended wife*) his now wife but then (*maiden name*)
 spinster, &c. of the second pt and the sd (*trustees*) of
 the third pt being the settlement made by the sd (*I W*)
 in contemplation of the marre then intended and shortly
 aftwds had and solemnized betn her and the sd (*I H*)
In consideration of such then intended marre and for
 the nominal conson of, &c. the sd (*I W*) did grant rele
 and confirm unto the sd (*T*) (among or. hereds) all and
 singr or. the lds and hereds situate at, &c. afd speci-
 fied in the schedule hereunto annexed or referred to by
 the now reciting indre and hnaft parlarly described
 and intended to be conveyed *To Hold* the same unto
 the sd (*T*) their hrs and ass to the uses upon the trusts
 and with the powers therein decl'd and cont'd of and
 concerning the same to take effect after the solemniza-
 tion of the sd then intended marre *And it was thby pro-*
vided agrd and decl'd that the messes lds tents and
 hereds hnaft described and ment'd or intended to be
 hby granted and released were (among or. hereds)
 settld limited and assured to the sevl uses upon the
 sevl trusts and to and for the sevl ends intents and purps
 and subject to with and under the sevl powers provos
 declarations and apts in the sd indre of rele limited
 expssed and decl'd of and concerning the same whby
 it was agrd and decl'd that it shd be lful for the sd (*T*)
 and the survor of them and his hrs exs and ads at any
 time or times thereafter at the request and with the
 consent of the sd (*Hand W*) during their jt lives and after
 the dece of either of them at the request or with the
 consent of the survor of them such request or consent
 to be signified by writing under their his or her hands
 and seals or hand and seal to sell dispose of and con-
 vey either by way of absolute sale for money or in ex-
 change for or. lds or hereds in fee simple in posson
 to be situated in some pt of Gt Britn or the Princi-
 pality of Wales the whole or any pt of the sd lds and
 hereds thereby granted and reld and the fee simple and
 inheritance thereof either togr or in pcls and either by
 public or private sale for such price or prices as to them
 or him shd seem rease *And* that for the purpe of effec-
 tuating such sales or dispositions (but not for any or.
 purpe) it was thby decl'd that it shd be lful for the sd (*T*)
 and the survor of them and the hrs exs or ads of such survor
 with such consent and approbation as afd by any deed
 or instrumt in writing sealed and deliv'd by them or him
 in the presence of and attested by two or more credible
 witnesses absolutely to revoke determine and make

void all and evy or any of the uses trusts powers and provisions thby limited decld or expssd of or concerning the heredit and preses which shd be so sold or agrd to be given in exchange as afd (except only and witht prejudice to any subsisting leases which might have been made under and by virtue of the power for that purpe thereinbefc contd) and by the same or any or. deed or instrmt in writing to limit declare direct appt or create any new use or uses este or estes trust or trusts of or concerning the sd heredit and preses so sold or agrd to be given in exchange so and in such manner as may be thought necessary or expedient for the completing and perfecting such sales and exchanges resply and for conveying the same preses to and for such use or uses upon such trusts and for such intents and purps as the purchaser or purchasers thereof or the psn or psns taking the same in exchange shd direct or require *And also* that upon payment of the money to arise by any such sales of the sd heredit or any pt thereof it should be lful for the sd (T) and the survor, &c. to sign and give rects and that such rects shd be good and sufficient acquittances and discharges to the psn or psns paying the same resply for so much thereof as in such rect or rects should be ackngd or expssd to be recd And that the psn or psns paying the same resply shd not aftwds be answerable or accountable for any misapplication or nonapplication of such purchase-money or any pt thof resply *And whas* the sd (T) pursuant to the sd power given them by the before in pt recited indre in that behalf have at and by the request and direction of the sd (H) and (W) his wife contracted and agrd with the sd (P) for the absolute sale to him of the fee simple and inheritance free from incumbrances of the lds tents and heredit hnaft described at or for the price or sum of £ — *Now this Indre Witnesseth* That in pursuance of, &c. and for and in conson of the sum of £ — of, &c. to the sd (T) in hand, &c. by the sd (P) at, &c. with the privy and consent of the sd (H) and (W) his wife testified by their being made parties resply hereto and by their sealing these prests the rect whof the sd (T) do hby acknge and do admit the same to be in full for the absolute purchase of the lds and or. heredit hnaft described and intended to be hby released and of and from the same sum and every pt thof they the sd (T) and also the sd (H) and (W) his wife do and every of them doth acquit rele and discharge the sd (P) his hrs exs ads and ass for ever by these pre-

*Freeholds
by
Trustees.*

*Contract
for sale by
trustees.*

Testatum.

Freeholds sends and pursuant to and by force and virtue and in
by exercise of the power or authority of the sd (T)
Trustees. for this purpe given by the before in pt recited indre
of settlemt and all or. powers and authties enabling
them in this behalf They the sd (T) at the request
and by the direction of the sd (H) and (W) his wife
testified as hnbefore mentioned *Do* by this present
Revocation deed or instrument in writing by them the sd (T)
of the uses. signed sealed and delivered in the presence of and
attested by the two credible witnesses whose names
are intended to be hereupon indorsed as witnesses
attesting the signing sealing and delivering of these
presents by the sd (T) absolutely revoke determine
and make void all and singular the uses trusts estates
powers provos and limitations in and by the sd
hnbefore recited indre of rele and settlement limited
declid and expssd of or concerning the sd lds and or.
heredts hnafter described and intended to be hby
Further appted and released or any of them *And this Indre*
testatum. *furr Witnesseth* That in furr pursuance of the sd
agrmt and in conson of the sd sum of £ — so by
the sd (P) pd as hnbefore is mentd and pursuant to
and in exercise and execution of the furr power and
authty given to or vested in them the sd (T) by
the sd hnbefore in pt recited indre and of all and evy
or. power and authty enabling them in this behalf
They the sd (T) with the privity consent and appro-
bation and by the direction and apptmt of the sd (H)
and (W) his wife testified by this deed or instrmt in
writing so by them signed sealed and delivered and
intended to be attested as hnbefore expssd *Do* and each
of them *Doth* hby limit declare direct and appt that all
and singr the messes or tents lds and heredts hnaft
parlarly described and intended, &c. and evy pt and pcl
thof shall from henceforth be and enure unto the sd (P)
his hrs and ass for ever freed exonerated released and
absolutely discharged of and from all and evy the uses
trusts estates powers provisos and limitations in or by
the sd in pt recited indre of release and settlemt expssd
and declid of and concerning the same *And this Indre*
furr Witnesseth That for the furr assurance of the sd
messe or tents lds and heredts unto the sd (P) and his
hrs and for the consons afd and also for the conson of
the sum of 10s. of, &c. to the sd (T) and the sd (H)
and (W) his wife in hand, &c. by the sd (P) at, &c. the
rect whof is hby ackngd They the sd (T) *Have* and
each of them *Hath* with the privity and consent and by
the direction and apptmt of the sd (H) and (W) his

wife testified as afd bargained sold aliened and reld and by, &c. *Do* and each of them *Doth*, &c. and the sd (*H*) and (*W*) his wife *Have* and each of them *Hath* granted bargained sold aliened reld and confirmed and by these prests *Do* and each of them *Doth*, &c. unto the sd (*P*) in his actual posson, &c. and his hrs *All*, &c. togr with all houses, &c. (see *Releases*, *Gen. Prec.*) And the revn, &c. and all the estate, &c. of them the sd (*T*) And the sd (*H*) and (*W*) his wife of, &c. *To Have*, &c. And the sd (*T*) for themselves, &c. (covt that they have not incumbered, see *Index*) And the sd (*H*) doth hby for himself and for the sd (*W*) his wife his or her hrs exs and ads covenant promise and agree with and to the sd (*P*) his hrs and ass in manner following that is to say That for and notwithstanding any act, &c. (see *Releases*, *Gen. Prec.*) the power of apptmt in and by the sd before in pt recited indre of rele and settlemt given or limited to the sd (*T*) as afd was thby well and effectually created and that the same is at the time of the sealing and delivery of these prests in full force and in no wise suspended extinguished or impeached and that by the exercise hby made of the sd power and the grant and rele herein-befe limited and appted or orwise assured the sd messes, &c. and evy pt thof shall be well and effectually conveyed and assured to the sd (*P*) his hrs and ass And furr that it shall and may be lful to and for the sd (*P*) his hrs and ass from time, &c. peaceably and quietly to enter into have, &c. (see *Releases*, *Gen. Prec.*) witht the let, &c. or denial of the sd (*H*) and (*W*) his wife their or either of their hrs or ass or of the sd (*T*) or of any or. psn or psns claiming or to claim by from under or in trust for them or any of them or any of the ancestors of the sd (*W*) And that free and clear and freely, &c. discharged or orwise by the sd (*H*) and (*W*) his wife or one of them or the hrs of the sd (*W*) well and sufficiently saved harmless, &c. of from and agst all and all manner of former and or. gifts, &c. and incumbs whatsr had made, &c. by the sd (*H*) and (*W*) his wife or either of them or the ancestors of the sd (*W*) or the sd (*T*) or any or. psn or psns by through, &c. And moreover that they the sd (*H*) and (*W*) his wife and their hrs and all and evy or. psn, &c. having or lfully claiming, &c. any este, &c. by from, &c. them or any of them or any of the ancestors of the sd (*W*) shall, &c. make, &c. (Acts for Further Assurance, see *Releases*, *Gen. Precedent*) In Witness, &c.

Freeholds
by
Trustees.

Release.

Habendum.
Covenant
from trus-
tees.
Covenants
from hus-
band and
wife.

Power of
appoint-
ment well
created.

Quiet as-
surance.

Free from
incum-
brances.

*Freeholds
by
Trustees.*

*Conveyance from Trustees under a Will to
a Purchaser.*

*Recital of
devise to
trustees to
sell.*

*Of codicil
to will.*

*Of death,
&c. of tes-
tator.*

This Indre made, &c. Betn (trustees) trustees named in the will of A B late of, &c. decd of the first pt (widow) of, &c. relict of the sd A B of the second pt and (purchaser) of, &c. of the third pt Whas the sd A B being at the date of his will hnaft recited and at the time of his dece seised of or orwise well entitled to the heredit hnaft reld or intended so to be duly made and published his last will and testmt in writg and did thereby give and devise unto the sd (T) All his freehold messes dwelling-houses tents closes lds and heredit whatsr situate lying and being at afd And also certain leaseholds therein-mentd And also all his stock in trade and implements used therein and all or. his pal este and effects whatsr and wheresoever not therein before by him given bequeathed and disposed of To Hold the same unto the sd (T) their exs ads and ass In Trust as soon after his death as conveniently might be to sell and dispose of first the personal estate and aftwds of his freehd estate for the discharge of debts and legacies And the testator did thby declare that on any sale or sales of his sd este or any pt thof the rect or rects of his sd trustees and the survor of them and the exs and ads of such survor should be a good and sufficient rele and discharge for so much money as should be expsd therein to be received to any purchaser or purchasers of the sd este and effects or any pt thof And the sd testator appted the sd (T) the exs of his sd will And whas A B duly made and published a codicil to his sd will which codicil bearg date on or abt day of and thby after giving certain pecuniary legacies to the several persons therein-mentd he did thby furr will order and declare that if his sd wife should not be able to collect and get in the rents and prfts of his este as afd with that facility which the trustees and exs of his sd will might desire or if it should seem to his trustees and exs more beneficial and advantageous to her and his sd chiln during their respive minorities to sell and dispose of his sd freehd este at any time before the sd legacies mentd in his sd will should be pd off and discharged Then the sd testator directed that they should sell and dispose of the same in such manner as should be deemed most advisable And for the best price or prices that could be gotten for the same And to place out the purchase money upon Govt or real secties Upon the Trusts therein-mentd And whas (recital of the death of A B and pro-

bate of the will) *And whas* the sd legacy of £ — to the sd testator's son A B and the sd legacies of £ — bequeathed to each of the dauers M and C of the sd testator remain unpd and the pel este of the sd testator is insufficient to pay his debts and the same legacies *And whas* the sd A B, M B and C B the chiln of the sd testator are still respily infants under the age of 21 yrs *And whas* it appears to the sd (T) that it will be more beneficial to the sd (W) and the chiln of the sd testator that the heredit hnaft described being pt of the sd devised real este should be sold *And whas* the sd (T) in pursuance of the power for that purpe in them reposed by the sd in pt recited will and codicil and with the consent of the sd (W) testified by her being a pty to and executing these prests have contracted with the sd (P) for the sale to him of the heredit hnaft described and intended to be hby reld and the inhance, &c. *Now, &c. this Indre Witnesseth* That in pursuance of the sd in pt recited contract and in conson of the sum of £ — of, &c. to the sd (T) in, &c. by the sd (P) at, &c. the rect whereof and that the same is in full, &c. (see *Releases, Gen. Prec.*) They the sd (T) with the consent of the sd (W) testified as afd *Have* and each of them *Hath* bargained sold and released and by these prests *Do* and each of them *Doth* bargain sell, &c. and the sd (W) *Hath* remised released and for ever quitted claim and by these prests *Doth* remise, &c. unto the sd (P) (in his actual posson, &c.) and his hrs and ass *All those* messes, &c. *And* the sd (T) for themselves severally and for their sevl hrs exs and ads and not jtly or the one for the or. of them or for the acts of the or. of them but for their own respive acts only do and each of them doth hby covt promise and agree to and with the sd (P) his hrs and ass that they the sd (T) have not nor hath either of them at any time heretofore made done committed or extd or wittingly or willingly suffered any act deed matter or thing whatsr whby or by means whof the sd messes or tents lds heredit and preses hnbefe mentd to be hby granted and reld or any pt or pel thof are or is or shall or may be in anywise impeached charged affected or incumbered in title charge estate or orwise howsr *In Witness, &c.*

*Freeholds
under
Mortgage*

*Personal
estate in-
sufficient to
pay lega-
cies.*

*That chil-
dren are
infants.*

*Trustees
determine
to sell.*

*Contract
for sale.*

Testatam.

*Covenant
from trus-
tees that
they have
not incum-
bered.*

Conveyance from Trustees under a Deed of Trust, and an Insolvent, to a Purchaser with an Assignment, from Mortgagees of a Term to a Trustee for Purchaser.

This Indre made, &c. Betn (trustees) of the first pt (insolvent) of, &c. of the second pt (mortgagees) of, &c.

*Freeholds
under
Mortgage
Of convey-
ance to
trustees in
trust for
sale.*

*Interest due
on mort-
gages paid.*

Testatum.

Habendum.

*Covenant
from
trustees.*

*Covenants
for title.*

of the third pt (*purchaser*) of, &c. of the fourth pt and (*trustee for purchaser*) of, &c. of the fifth pt *And whas* by indre of lease and release bearing date respby, &c. and made or expssd to be made betn the sd (*I*) of the one pt and the sd (*trustees*) of the or. pt for the consons therein expssd the sd (*I*) did grant rele and confirm unto the sd (*T*) their hrs and ass the pieces or pcls of grd and or. hereds hnafr parlarly decribed and intended to be hby granted with the apts *To Hold* the same unto and to the use of the sd (*T*) their hrs and ass *Upon Trust* that they the sd (*T*) or the survor, &c. should with all convenient speed make sale and dispose of the sd pieces, &c. (for paymt of the mortgage and or. debts of the insolvent) *And* it was thby expsaly decld that the rects, &c. of the sd (*T*) should be a valid and sufficient discharge and that the purchaser, &c. should not be answerable, &c. *And whas* (recite contract for sale) *And whas* all int which has become due on the afd sum of £ — hath been duly pd to the sd (*M*) up to the day of the date of these prests so that the sd principal sum of £ — only now remains due upon or by virtue of the sd security as they the sd (*M*) do hby admit and acknge *Now this Indre Witnesseth* That in conson of the sum of £ — of, &c. to the sd (*M*) pd by the sd (*P*) as hnafr is mentd and also in conson of the sum of £ — of like lful money to them the sd (*T*) in hand, &c. pd by the sd (*P*) at, &c. the rect and paymt of which two sevl sums of £ — and £ — making togr the sum of £ — the purchase-money afd they the sd (*T*) do hby respby admit and acknge and of and from the same and evy pt thof do and each and evy of them doth acquit, &c. (see *Releases, Gen. Prec.*) they the sd (*T*) at the request and by the direction of the sd (*I*) testified by his being a pty to and exting these prests *Have* and each and every of them *Hath* bargained (see *last precedent*) and the sd (*I*) *Hath* granted, &c. unto the sd (*P*) (in his actual posson, &c. see *Releases, Gen. Prec.*) and his hrs, &c. *All, &c.* togr with all and singr ways, &c. and the revn, &c. and all the este, &c. of them the sd (*T*) and the sd (*I*) *To Have, &c.* the sd, &c. hby granted and reld or orwise assured or intended so to be unto the sd (*P*) his hrs and ass for ever (*a*) *And* each of them the sd (*T*) so far as relates to his own acts and deeds only but not furr or orwise doth hby for himself, &c. covt, &c. (that he hath done no act to incumber) *And* the sd (*I*) for himself, &c. covt, &c. in manner,

(a) As to the declaration to bar dower, see *Dower*.

&c. That for and notwithstanding any act, &c. by him, &c. the sd (I) made, &c. they the sd (I) (T) and (M) or some or one of them hath in themselves or himself good right to grant bargain, &c. And that the sd pieces, &c. shall go and remain, &c. free from incumbrances, &c. And moreover (covt for furr assurance) And this Indre furr Witnesseth that in conson of the sum of £ — of, &c. at or before, &c. to them the sd (M) in hand, &c. pd by the sd (P) at the request and by the direction as well of the sd (T) as of the sd (I) testified by their resply being pties to and sealing and delivering these prests the rect of which sum of £ — in full discharge of all principal monies and int due upon or by virtue of the sd mtge they the sd (M) do hby resply acknge and admit and of and from the same do hby rele acquit and for ever discharge as well the sd (P) his hrs appteas and ass as also the sd (I) his hrs exs ads and ass for ever by these prests they the sd (M) at the request and by the direction as well of the sd (T) as the sd (I) and upon the nomination and apptmt of the sd (P) testified as afd Have and each of them Hath bargained sold assigned transferred and set over and by these prests Do and each of them Doth, &c. unto the sd (trustee for purchaser) his exs ads and ass the sevl pieces, &c. and all and singr or. the preses comprised in the sd term of yrs created by the hubefe in pt recited indre of, &c. and evy pt and pcl of the same with their and evy of their rights members and apts and all the este, &c. of them the sd (mortgagees) and each of them in to from and out of the same preses and evy of them and evy pt thof To Have, &c. the sd pieces, &c. hby assd or orwise assured or intended so to be with their apts unto the sd (T) for all the rest and residue of the sd term of yrs In Trust nevss for the sd (P) his hrs appteas and ass to assign and dispose of the same as he or they shall from time to time direct or appt And in the mean time to permit the residue and reinr of the sd term of yrs to wait upon and attend the revn freehold and inheritance of the same presses so as to protect the same from all mesne incumbs (if any there be) And the sd (one mortgagee) so far as relates to his own acts deeds and defts and no furr or orwise doth hby for himself his hrs exs and ads and the sd (other mortgagee) so far as relates to his own acts deeds and defts and no furr or orwise doth hby for himself his hrs exs and ads covt, &c. with, &c. the sd (P) his hrs, &c. that they the sd (M) have not resply made done, &c. (any act to incumber) In Witness, &c.

Freeholds
under
Mortgage

Further
testatum.

Assignment
of term.

Habendum.

To trustee
for pur-
chaser.

To attend
the inherit-
ance.

*Freeholds
under
Mortgage*

*Conveyance of Mortgaged Premises to a Purchaser,
and Release from a Judgment-Creditor.*

Obs. As to the acknowledgment of this deed, see *Fines and Recoveries*, Pref. § 7.

Recital of
conveyance
by mort-
gagor to
trustees.

This Indre, &c. of four parts made, &c. Betn (vendors) of, &c. trustees named for the purps hereinafter mentd of the first pt I C of, &c. and M his wife W H of, &c. and A his wife E B of, &c. spinster and S B of, &c. which sd M, A, E, and S are the daurs and only chldn of A B late of, &c. decd (who was the only brother of B B late of, &c. also decd) and the nieces of him the sd B B of the second pt (creditor) of, &c. of the third pt and (purchaser) of, &c. of the fourth pt Whas, &c. (recite mortgage) And whas by indres of lease and rele bearing date resply the days of the rele being tripartite and made or expsd to be made betn the sd B B of the first pt the sd (trustees) of the second pt and the sd (C) of the third pt Reciting that the sd B B was indebted to the sd (C) in the sum of £ — It was witnessed that in order to make paymt of the sd debt and int for the same and for or. consous therein mentd he the sd B B did grant and convey to the sd (T) their hrs and ass (subject to a mortgage by demise for 500 yrs made to T B of, &c. In Trust for securing, &c. and int to the sd T B late of, &c. since deceased and hnaft mentd to be assd) All that manor, &c. hnaft more parlarly described To Hold the same to the sd (T) their hrs and ass for ever to the only proper use and behoof of them the sd (T) their hrs and ass Upon Trust nevss and to the intent and purpe that the sd (T) and the survor of them and the hrs and ass of such survor should as soon as conveniently might be with the consent and approbation of the sd (C) in writing under his hand to be exted in the presence of two or more credible witnesses sell and dispose of the sd manor, &c. thereby granted and reld togr or in pcls for the best price or prices they could get for the same and in the mean time and until such sale could be made to rece the rents issues and prfts of the sd preses and to pay apply and dispose of the mos to arise from such sale and also the rents and prfts of the sd preses in the mean time (after deducting their reasone costs and chas relating to the same preses) unto the sd (C) his exs ads and ass for or towds paymt and satisfaction of the sd debt of £ — so due to the sd (C) and lful int for the same until

the sd principal sum of £ — and all int due and to grow due to him for the same should be fully pd and satisfied as by the sd in pt recited indres reference being thereto had will more fully appear *And whas* the sd (C) in or about term 18 recovered a judgment in his Maj Ct of Common Pleas at Westmtr agst the sd B B for £ — debt and £ — costs which judgment is still in force as by record thereof, &c. and which sd judgment was given for securing the paymt of the sd debt of £ — so due to the sd (C) as afd *And whas* the sd (P) hath contracted and agreed with the sd (C) for the absolute purchase of the freehd and inhance of the sd manor lds and preses so granted and conveyed to the (T) in trust as afd *And they* the sd (T) by and with the privity consent and approbation as well of the sd (C) as of the sd I C and M his wife W H and A his wife E B and S B testified in manner hnaft mentd have agrd to sell and convey the same to the sd (P) and his hrs togr with all the rents and prfts thereof which have accrued due from last and all arrears of quitrents now due or in anywise paye in respect of the sd manor lds and preses for the price or sum of £ — *And whas* by indre of assnmt *quinque partite* bearing even date herewith and made or mentd to be made betn, &c. Reciting (amongst or, things) an indre of demise or mtge hnbefe mentd bearing date the day of and made or mentd to be made betn the sd B B of the one pt and the sd T B of the other pt whby the sd preses were granted and demised to the sd T B for the term of 500 yrs in trust for securing the paymt of £ — and int to the sd T B the sum of £ — it is witnessed that for and in conson of the sum of £ — of lful, &c. to T B of, &c. the son and exr of the sd T B as afd in hand pd by the sd (P) in manner therein mentd in full satisfaction and discharge of all mos due to him for principal and int on the sd mtge and secty therein recited He the sd T B did bargain sell and assign unto the sd (*trustee for purchaser*) the sd indre of demise and mtge and the preses thereby demised *To Hold* to him the sd (T) his exs, &c. for all the residue and remr of the sd term of 500 yrs therein to come and unexpired *In trust* for the sd (P) his hrs and ass and to attend and wait upon the freehold and inheritance of the same preses when the same should be absolutely conveyed to him the sd (P) his hrs and ass *And whas* the sd sum of £ — so pd by the sd (P) to the sd T B pty to the last in pt recited indre of assnmt was and is agrd by all the pties to these prests to be and is accepted to be in

*Freeholds
under
Mortgage*

*Contract
for sale.*

*Assignment
of a mort-
gage term.*

*Freeholds
under
Mortgage*

pt of the sd sum of £ — so agrd to be pd for the absolute purchase of the este and preses hby intended to be granted and conveyed *Now this Indre Witnesseth* That in conson of the sum of £ — so pd to the sd T B the exr as afd as also in conson of the furr sum of £ — residue of the sd sum of £ — to the sd (C) in hand pd by the sd (P) by and with the consent of the sd J C and M his wife W H and A his wife E B and S B testified resply by their signing sealing and delivering these prests And also in conson of 5s. a-piece of, &c. to the sd (T) and I C and M his wife W H and A his wife E B and S B resply in hand pd the rect of which sd sevl sums and that the same are in full paymt and satisfaction of and for the sd purchase-money the sd (T) and I C, &c. do hby sevlly and resply acknowledge and of and from the same do acquit rele and for ever discharge the sd (P) his hrs exs and ads and every of them by these prests They the sd (T) by the consent and direction of them the sd (C) I C and M his wife W H and A his wife E B and S B testified in manner afd *Have* and each of them *Hath* bargained sold aliened and reld and by these prests do bargain, &c. And also they the sd I C and M his wife W H and A his wife E B and S B *Have* and each of them *Hath* reld ratified and confirmed and by, &c. *Do*, &c. rele, &c. unto the sd (P) [in his actual posson, &c. see *Releases, Gen. Prec.*] and to his hrs *All that* manor, &c. And all and singr the houses edifices dove-houses barns stables and buildings lds tents meadows pastures feedings woods underwoods waters rivers wastes furzes heaths marshes commons common of pasture and turbary foldings liberties of foldage sheep-courses feedings for sheep ways easements royalties of fishing fowling hawking and hunting free warren court-baron court-leet and view of frankpledge prfts and perquisites of courts quitrents and all arrears thereof fines and amerciaments services suits waifs estrays heriots goods and chattels of felons and fugitives and felons of themselves deodands customs liberties privileges franchises jurisdictions commodities emoluments and hereds whater with their and evy of their rights members and apts to the sd manor or lordship messe lds hereds and preses intended to be hby reld or any of them belonging or in anywise appertaining or therewith or with any pt or pcl thereof now or heretofore demised leased occupied or enjoyed or esteemed accepted reputed taken or known as part pcl or member thereof or of any part or pcl thereof situate lying and being in the towns and parishes of

*General
words.*

B and C and county of D or one of them or in any or. town or towns to them or either of them near or next adjoining all which sd preses intended to be hby reld were late the este of the sd B B and now are or late were in the occupation of G H And the revn and revns reimr and remrs rents issues and prfts of all and singr the sd preses And all the este right title int claim and demand whatsr both at law and in equity of them the sd (T) and I C and M his wife W H and A his wife E B and S B or any of them of in and to the same manor, &c. and evy pt and pcl thereof And all deeda evidences court-books court-rolls surveys maps plans terriers rentals and or. writings escripts and muniments whatsr in their or any of their custody or touching or in anywise concerning the sd manor, &c. or any pt thof *To Have and to Hold* the sd manor, &c. and all and singr or. the preses hby granted and reld or orwise assured or intended so to be with their and every of their apts unto the sd (P) his hrs and ass To the only proper use and behoof of him the sd (P) his hrs and ass and to and for no or. use whatsr (here add, if necessary, a declaration to bar dower, see *Dower*.) And for the furr and better assuring the sd manor, &c. and preses unto the sd (P) the sd I C for himself and M his wife and the sd W H for himself and A his wife do hby sevly and resply covt, &c. with, &c. the sd (P) his hrs and ass that the sd M and A they the sd M and A hby consenting thereto shall and will appear, &c. (see *Fines and Recoveries*, Pref. § 7, and also *Precedents*) And the sd I C for himself and M his wife and the sd W H for himself and A his wife and the sd E B and S B for themselves sevly and each and evy of them for their sevl and respive hrs exs and ads do sevly and resply covt, &c. with, &c. the sd (P) his hrs and ass by these presents in manner following That for and notwithstanding any act, &c. made, &c. by the sd I C and M his wife W H and A his wife E B and S B or by the sd B B they the sd I C, &c. or some or one them are or is lfully (seised) of a good estate in fee simple, see *Releases*, *Gen. Prec.*) And that for and notwithstanding any such act, &c. they some or one of them have or hath (good right to convey) And that the same manor, &c. shall, &c. be peaceably, &c. held, &c. wiht any let, &c. of from or by the sd I C, &c. or any or. psn claiming by, &c. them or any of them or the sd B B decd And that free, &c. from incumbe, &c. made, &c. by them the sd I C, &c. or any of them or any or. psn claiming, &c. And moreover that they the sd I C, &c. and all psns claiming,

*Freeholds
under
Mortgage*

*Covenant
from hus-
bands that
their wives
shall ac-
knowledge
the deed.*

*Covenants
for title.*

*Freeholds
by As-
signees.*

*Covenant
from trus-
tees that
they have
done no act
to incum-
ber.*

*Release
from judg-
ment
creditor.*

&c. shall, &c. make, &c. (acts for further assurance) *And* each of them the sd (T) so far as relates to his own acts deeds and defts doth hby for himself sevely and resply and his respive hrs exs and ads covt declare and agree with and to the sd (P) his hrs, &c. that they the sd (T) or any of them have not (done any act to incumber) *And* the sd (C) for the consons afd *Hath* remised reld and for ever quitted claim and by these prests *Doth* remise, &c. unto the sd (P) his hrs and ass *All* and all manner of right title int claim and demand whatsr both at law and in equity in to and out of the sd manor lds heredit and preses hby granted and reld or orwise assured or intended so to be and evy pt and pcl thereof so as that neither he nor his hrs exs or ads shall or may at any time or times hrafr have claim pretend to challenge or demand any right title int claim or demand whatsr in to or out of the sd manor lds heredit and preses or any pt thereof by virtue of the sd in pt recited judgmt so given to the sd (C) as afd or orwise howsr but that the sd (P) his hrs and ass and the sd manor lds heredit and preses shall from henceforth for ever hrafr be exonerated and discharged of and from the sd judgmt and of and from all claims and demands whatsr which he the sd (C) might or could have in respect thereof *In Witness, &c.*

Conveyance from Assignees of a Bankrupt of Lands purchased by the Bankrupt to one as Trustee for the Purchaser to whom the Purchase Money belonged.

Obs. As to conveyances by assignees, see *Bankruptcy*, vol. i. p. 215.

*Recitals.
Convey-
ance to
bankrupt*

*that pur-
chase
money be-
longed to
purchaser.*

This Indre made, &c. Betn (*assignees*) assignees of the este and effects of (*bankrupt*) of the first pt the sd (*bankrupt*) of, &c. of the second pt the sd (*purchaser*) of, &c. of the third pt and (*trustee*) of, &c. of the fourth pt *Whas* by indres of lease and rele bearing, &c. and made, &c. in conson of the sum of £ — expssd to be pd by the sd (B) *All, &c.* were conveyed and assured unto and to the use of the sd (B) his hrs and ass for ever *And whas* the sd sum of £ — the conson money for the sd hnbeft in pt recited conveyance was in point of fact pd out of the monies belonging to the sd (*purchaser*) and the name of the sd (B) was inserted in the sd in pt recited indre as a trustee for the sd (P) which the sd (*assignees*) do hby resply acknge *And whas* (re-

cite fiat, &c. of bankruptcy agst the sd bankrupt *And whas* at a meeting of the major part in value of the creditors who had proved their debts under the sd fiat being a meeting holden at in, &c. afd on or about, &c. last past pursuant to notice for that purpe given in the London Gazette It was resolved by the crs then and there present that the sd (*A*) might and they were thby authorized and empowered at the expense of the sd (*P*) his hrs and ass to rele and convey the sd messes lds and hereds hnbeft described and hnafttr reld or orwise assured or intended so to be unto the sd (*P*) his hrs and ass or as he or they shd direct the sd crs being satisfied that the same were conveyed to the sd (*B*) his hrs and ass as a trustee only for the sd (*P*) his hrs and ass and that the sd (*P*) pd the whole purchase money for the same which sd resolution and direction or authty appears by a certain writing under the hand of the sd crs and bearing date, &c. *And whas* the sd (*P*) hath requested that the sd messe lds and hereds shd be conveyed to the uses and upon the trusts and in manner hnafttrmentd *Now this Indre Witnesseth* That in pursuance of the sd resolution and direction or authty and in conson that the sd sum of £ — was really and *bond fide* pd out of the mos belonging to the sd (*P*) and that the name of the sd (*B*) was inserted in the sd in pt recited indres resply as a trustee for the sd (*P*) And also in conson of 5s. of, &c. to each of them the sd (*A*) and (*B*) in hand, &c. by the sd (*T*) at, &c. the rect, &c. They the sd (*A*) with the privity and consent of the sd (*B*) testified, &c. and upon the nomination and appointment of the sd (*P*) *Have* and each and evy of them *Hath* bargained sold and released and by, &c. *Do*, &c. *And* the sd (*B*) *Hath* granted bargained sold released ratified and confirmed and by these, &c. *Doth*, &c. unto the sd (*T*), &c. (in his actual posson, &c.) and his hrs *All*, &c. And the revn, &c. And all the este, &c. *To Have*, &c. unto the sd (*T*) his hrs and ass for ever nevss To the uses upon the trusts and for the ends, &c. hnafttr limited expsd and decld of and concerning the same that is to say To such uses, &c. as purchaser shall appt (here add, if necessary, a declaration to bar dower, see *Dower*, vol. ii. p. 72.) And each of them the sd (*A*) severally separately and apart from the others of them doth hby for himself, &c. and as to for and concerning his own acts deeds and defts only covt, &c. (that they have done no act to incumber) *In Witness*, &c.

*Freeholds
by As-
signees.*

*Creditors
empower
assignees
to convey
to pur-
chaser, &c.*

Testatum.

Habendum.

*Covenant
from as-
signees.*

Freeholds
under a
Decree.

*Conveyance of an Estate sold by Auction pursuant
to a decree of the Court of Chancery.*

Recitals.

*This Indre, &c. Betn M L relict of F L of, &c. deceased of the first pt F L eldest son and hr at law of the sd F L decd of the second pt N L the only son of N L who was the second surviving son of the sd F L decd and a devisee named in the sd will which sd N L the younger is now an infnt under the age of 21 years to wit of the age of or thereabouts of the third pt L L relict of the sd N L the father of the fourth pt and (purchaser) of, &c. of the fifth pt Whas (recite seisin of F L) decd And whas the sd F L decd by his last will and testint duly exted in writing bearing date, &c. Did give and devise all his messes, &c. to (trustees) to hold the same upon the trusts therein-mentioned And did thby declare that if his pal estate shd prove deficient for the purps thin-mentd it should be lful for his sd (T) to raise and pay such deficiencies by a sale or mtge of any pt of the preses And whas, &c. (recite death of testator witht revoking his will) And whas the sd (trustees) soon after the dece of the sd testator in due form of law renounced the executorship of the sd will and thereupon letters of administration were duly granted to the sd N L decd by the Prerogative Court of, &c. And whas by a decree or decretal order of the High Ct of Chancery made and pronounced on day of by the sd Ld High Chancellor in a cause in which the sd N L the infnt by his next friend was plttf and the sd N L since decd and L L his widow were defts It was amongst or. things ordered and decreed that it should be referred to Mr. H. one of the Masters of the sd Ct to take an account of the personal este of the sd F L decd not specifically come to the hands of the sd N L his administrator and to the hands of the sd L L his administratrix *de bonis non* since his death or either of them or to the hands of any or. psn or psns for their use And it was further ordered that the sd Master should take an account of the sd testator's debts and funeral exps and that the personal este of the sd testator should be applied in payment of the same in a course of administration And that the sd Master shd enquire what estates the same testator was seized of at the time of his death and what was the yearly value thof and what charges and incumbrances there were thereon And whas (recite report of the Master) And whas by a furr decree bearing date, &c. it was ordered and decreed that the sd messes lds and heredts should be sold with the approbation of the sd Master to the best*

purchaser or purchasers that could be procured for the same to be allowed of by the sd Master and that all necessary and proper pties should join in the conveyance thof in such manner as the sd Master should direct and that the money to arise from such sale or sales should be put into the Bank in the name of the Accountant-General of the sd Court to be placed to the credit of the sd cause subject to the furr order of the Ct *And whas* in pursuance of the sd decree the sd messes lds and heredts were put up to sale on the day of now last past before the sd Master at in sevl lots at which sale the sd (P) being the highest bidder was decid to be the purchaser of lot at the sum of £ — And the sd Master by his report made in the same cause bearing date the day of last past certified and allowed the sd (P) to be the purchaser thof at the sd sum of £ — *And whas* by an order made in the sd cause on the day of It was ordered that the sd (P) should on or before the day of then next pay the sd sum of £ — being his sd purchase money for the sd preses comprised in Lot into the Bank to be there placed to the acct of the Accountant-General as afd *And whas* in pursuance of the sd last recited order the sd (P) did on the day of pay the sd sum of £ — in full for the sd purchase money into the Bk of Engld in the name and with the privity of the Accountant-General *And whas* the sd Master hath perused and approved of these presents engrossed on skins of parchment and in testimony of his approbation of the same resply has set his name in the margin of each of the skins of these prests and also in the margin of the sd indre of bargain and sale *Now this Indenture Witnesseth* That in pursuance of and obedience to the sd recited decree or decretal order of the day of and in conson of the sum of £ — pd into the Bank by the sd (P) in full for his purchase money as afd the payment whereof the sd M L, F L, N L and L L pties hereto do hby admit and acknge and of and from the same and evy pt thof do for ever acquit rele and discharge the sd (P) his exs and ads by these prests and for divers or. consons they the sd M L, F L, N L and L L *Have* and each of them *Hath* granted bargained sold aliened released and confirmed and by these prests *Do* and each of them *Doth* grant, &c. *All that* close, &c. together with all ways, &c. (see *Releases, Gen. Prec.*) And the revn, &c. And all the este, &c. of them the sd M L, F L, N L and L L of in, &c. the sd close which sd close and preses, &c. mentioned and intended to be hby granted and released are now in the actual possession of the sd (P) by virtue of a bargain

*Freeholds
under a
Decree.*

Testatum.

Freeholds to Trustees. and sale to him thof made by the sd M L, F L, N L and L L for the term of a year in conson of 5s. to them pd by the sd (P) in and by one indre bearing date the day next before the day of the date of these prests and commencing from the day next before the day of the date of the same indre of bargain and sale and by force of the statute for transferring uses into possession *To Habendum.* *Have and to Hold* the sd, &c. and all and singr or. the preses, &c. unto and to the use of the sd (P) his hrs and ass for ever *And* the sd M L for herself, &c. doth hby covt, &c. with and to the sd (P) that she the sd M L (hath done no act to incumber, see *Index*) *And* the sd M L, F L and N L separately and apart each for himself and herself his and her hrs exs and ads and not jtly nor the one for the or. of them nor for the hrs exs ads or acts of the other of them but each of them for his own hrs exs ads and acts only do and doth covt promise and agree with and to the sd (P) in manner following that is to say That they the sd M L, F L or N L some or one of them have or hath (good right to convey) *And* that it shall and may be lful for the sd (P) his hrs and ass from time to time and at all times hrafr peaceably and quietly to enter and rece and take the rents, &c. to and for his and their own proper use and bent witht the lful suit denial eviction interruption disturbance claim or demand whatsr of from or by the sd M L, F L and N L resply or their respye hrs or any psns lfully claiming or to claim by from under or in trust for them resply *And that free, &c. (see Releases)* *And moreover* that they the sd M L, &c. and all psns, &c. shall make, &c. (acts for further assurance) *In Witness, &c.*

Bargain and Sale of Lands to Trustees for a Charity to be afterwards enrolled in Chancery.

This Indre made, &c. Betn (vndor) of, &c. of the one pt and (purchasers) trustees of and for a certain charity or hospital commonly called of the or. pt *Testatum.* *Witnesseth* That for and in conson of the sum of £— to the sd (V) in hand pd by the sd (P) at or before, &c. the rect whereof the sd (V) doth hby acknge, &c. He the sd (V) *Hath* granted bargained sold aliened reld confirmed and by these prests *Doth* grant, &c. unto the sd (P) their hrs and ass for ever *All those, &c. acres, &c. To Have and to Hold* the same acres, &c. hby bargained and sold or orwise assured or intended so to be and evy pt thereof with all their rights members and appts and evy of them unto the sd (P) and to their hrs and ass for ever but nevss to for and upon such trusts

uses intents and purps as the Governors of the sd charity or hospital for the time being shall from time to time and at all times for ever hraft direct limit and appt the same And the sd (V) for himself his hrs exs and ads doth hby covt, &c. with the sd (P) their hrs and ass and evy of them That he the sd (P) hath not at any time heretofore committed or knowingly or willingly suffered and shall and will not commit or suffer any act matter or thing whatr whby the sd acres, &c. hnbefore mentd to be hby bargained and sold or any pt thereof now is or hraft shall or may be in anywise charged or incumbered or the este or title thereof in anywise impeached And whas the sd (P) and S his wife (a) did as of Easter term in the yr before the justices of his Maj. Ct of C. P. at Westr in due form of law acknge and levy unto A B of, &c. gent one fine, &c. with proclamation according to the form of the statute in such case made and provided of *all that*, &c. whereof the sd acres hby bargained and sold are pt and pel Now it is hby decid and agrd by and betn the pties to these prests that the sd fine as to the acres hby bargained and sold shall be and enure and is hby declared to be and enure to the use and behoof of the sd (P) their hrs and ass upon the trusts afd and to and for no or. use intent or purpose whatr And the sd (V) for himself his hrs exs and ads and evy of them doth covt and grant to and with the sd (P) their hrs and ass and to and with evy of them in manner following that is to say That for and notwithstanding any act, &c. by him done or committed except as is hnaft excepted the sd (V) now is the true and lful owner of the sd acres of meadow and pasture grd hnbefore mentd to be hby bargained and sold or orwise assured or intended so to be and of evy pt thereof with the apts And is rightfully seised thereof of a good pure absolute and indefeasible estate of inheritance in fee simple witht any manner of condon trust contingency covt provo or limitation of use or uses or or. restraint matter or thing whatr to alter change charge determine incumber defeat or make void the same And that for, &c. any act, &c. (except as is hnaft excepted) the sd (V) hath now in himself good right full power and lful and absolute authty to grant bargain sell alien and convey the sd acres of meadow and pasture grd hby bargd or sold or orwise assured or intended so to be unto the sd (P) in manner and form afd according to the true intent and meaning of these prests And that the sd acres of meadow and pasture ground hby bargained

*Freeholds
to
Trustees.*

*Recital of
a fine.*

*Covenants
for title.*

*Rightfully
seised.*

*Good right
to convey.*

(a) See *Fines and Recoveries*, and the provisions for such as were eived and suffered before the 31st day of December, 1833.

Freeholds to Trustees. and sold and evy pt and pcl thereof now is and from henceforth for ever shall continue remain and be unto the sd (P) their hrs and ass witht any let suit trouble hindrance molestation eviction interruption or disturbance whatsr of or by the sd (V) his hrs or ass or any or. psn or psns lfully claiming or to claim from by or in trust for him them or any of them *And that* free and clear and freely clearly and absolutely acquitted exonerated and discharged of and from all and all manner of former and or. bargains sales gifts grants feoffments devises uses jointures dowers intails leases rights titles refts arrearages of rents issues amerciaments debts duties judgmts exons extents titles chas and incumbrances whatsr had made done committed or knowingly or willingly suffered or hrafr to be had made done committed or knowingly or willingly suffered by the sd (V) or by any or. psn or psns claiming or to claim by from under or in trust for him except the residue of a term of yrs of and in the sd preses assigned to R S of, &c. *In Trust* for the sd (V) his hrs and ass to attend and wait upon the inheritance thereof and to protect the same from all mesne incumbrances if any there be *And furthermore* the sd (V) doth for himself his hrs, &c. hby covt promise and grant (a) to and with the sd (P) their hrs and ass that he the sd (V) his hrs exs ads or ass some or one of them shall and will (accidents by fire and or. inevitable accidents excepted) from time to time and at all times at the request costs and chas of the sd (P) their hrs or ass or some or one of them produce and shew forth or cause to be produced or shewn forth in any court or courts of law or equity to counsel or elsewhere all and evy or any the deeds evidences and writings which are or shall be in the custody posson or power of the sd (V) his hrs exs ads or ass or that he or any of them can come at witht suit in law or equity which relate to or in anywise concern the afd acres, &c. hby bargained or sold or orwise assured or intended so to be alone or jointly with any or. lds tents or hereds and from time to time and at all times hrafr when thereunto requested shall and will make and give unto the sd (P) their hrs or ass true copies of all such deeds evidences and writings as afd such copies to be had made and taken at the like costs and chas of the sd (P) their hrs and ass *And lastly* that he the sd (V) and his hrs and all and evy or. psn or psns whatsr rightfully having or claiming or who shall or may rightfully have or claim any este right title or int either in law or equity of in to or out

Free from incumbrances.

To produce title deeds.

Further assurance.

(a) As to this covenant, see Pref. § 8.

of the sd acres, &c. or any pt thereof by from under or in trust for him them or any of them (except the psn to whom the residue of the sd term of yrs shall be assigned) *In Trust* for the sd bargainees their hrs or ass and those claiming under such assignee or assignees in respect of the same term) shall and will from time to time and at all times hraft at the request and the proper costs and chas of the sd (P) their hrs and ass make do acknowledge and exte or cause or procure to be made done acknowledged and exted all and evy such furr and or. lful and reasone acts deeds and conveyances in the law whatsr for the furr better more perfectly and absolutely granting assuring releasing and conveying unto and to the use of the sd (P) their hrs and ass the sd acres, &c. hby bargd and sold or orwise assured or intended so to be and evy pt and pcl thereof with the apts as by the sd (P) their hrs or ass or any or either of their counsel learned in the law shall be reasonably advised or required so as in such furr assurance there be contd no furr or or. warranty or covt than agst the psn or psns his or their hrs who shall be required to make or do the same and so as the pty or pties who shall be required to make the same be not compelled or compellable to go or travel from his or their respive place or places of abode for the doing thereof *In Witness, &c.*

*Freeholds
by several
Vendors.*

Conveyance by several Vendors, Tenants in Common, to two Purchasers, where a Part of the Purchase Money is secured by a Mortgage, by Demise of the Premises.

This Indre made, &c. Betn (a) (vendor) of the first pt and (purchasers) of the second pt Whas (recite will whby testator devised his manors messes or tents lds and hereds unto his wife during her natural life and after her dece to one or more or all of his sons as she should by her last will, &c. appt and in deft of apptmt or as to so much as the same should not extend unto his sd sons as tenants in common and not as jt tenants) And whas the sd (W) departed this life on or about the day of last past witht having made any apptmt or disposition of the sd messes, &c. by virtue of the power to her given by the sd in pt recited will And whas (recite contract for purchase) (b) And whas upon

Recitals.

(a) If part of the purchase money be borrowed of a stranger, say, 'Betn (vendors) of, &c. of the first pt (purchasers) of, &c. of the second pt and (mortgagee) of, &c. of the third pt.'

(b) If the money be borrowed of a stranger, say, 'And whas it not being convenient to the sd (purchaser) to pay the whole of the sd purchase money at present he hath applied to and requested

*Freeholds
by several
Vendors.*

Testatum.

Habendum.

the treaty for the sd purchase it was agrd that the sum of £ — pt of the purchase money should be secured to be pd to the sd (V) with int for the same in the manner hnafr mentd *Now this Indre Witnesseth* That in con-son of the sum (a) of £ — of, &c. pt of the sd purchase money or sum of £ — to the sd (V) in hand, &c. by the sd (P) at, &c. pd the rect whof they the sd (V) do and each of them doth acknge and of, &c. the same and evy pt thof do and each of them doth hby acquit, &c. the sd (P) and each of them and their and each of their hrs exs ads and ass And also for and in conson of the sum of £ — to be pd to the sd (V) with int in manner hnafrmentd they the sd (V) *Have* and each and evy of them *Hath* granted bargained sold aliened released and confirmed and by, &c. *Do* and each of them *doth* grant, &c. unto the sd (P) their hrs and ass *All those* manors, &c. togr with all messes farms, &c. (general words for a manor, see *Index*) And the revn, &c. And all the este, &c. of them the sd (V) and every of them of in to and out of the sd manors messes, &c. *To Have and to Hold* the sd manors messes, &c. and evy pt and pcl of the same with their and evy of their rights and apts unto the sd (P) (b) their hrs exs and ads But to the use of the sd (V) and each of them their and each of their exs, &c. for and during and unto the full end and term of 500 yrs to commence and be computed from the day next before the day of the date of these prests witht impeachment of or for any manner of waste or. than wilful and destructive waste *Subject* nevss to the proviso or agrt for redemption hnafr contd And in the mean time and subject thereto as to one undivided moiety or equal half pt of the sd manors messes, &c. hby released, &c. (the whole into two equal half pts or shares to be considered as divided) To the use of the sd (*one purchaser*) his hrs and ass for ever And as to the remaining equal half pt or moiety of the sd manors, &c. To the use of the sd (*other purchaser*) his hrs and ass

the sd (*mortgagee*) to lend and advance him the sum of £ — which he the sd (*mortgagee*) hath agrd to do on having the same secured to him in manner hnafrmentd.

(a) Or, 'the sum of £ — pt of the purchase money to the sd (V) in hand, &c. by the sd (M) pd at the request and by the direction of the sd (P) testified, &c. and also in conson of the sum of £ — the residue of the sd sum of £ — by the sd (P) &c. pd the rect of which sd sums of £ — and £ — making togr the sum of £ — the sd (V) do hby and each of them doth, &c. acknge to be in full for the consideration money and of and from the same, &c. doth acquit, &c. the sd (M) and (P) They the sd (V) *as above*.

(b) If it be a mortgage in fee to a stranger, say, 'Unto the sd (*mortgagee*) his hrs and ass to the use of the sd (*mortgagee*) his hrs and ass for ever subject nevss, &c. *Provided always, &c. as above*.

for ever *Provided always* and it is hby decl'd and agr'd by and betn the parties that if the sd (P) or either of them their or either of their hrs exs ads or ass do and shall well and truly pay or cause to be pd unto the sd (V) (a) or either of them their or either of their exs ads or ass the sum, &c. (see *Mortgages, Gen. Prec.*) Then and in that case the sd (V) or either of them their or either of their exs, &c. shall and will at any time upon the request and at the costs and chas of the sd (P) their hrs ads or ass assign (b) the sd manors, &c. for all the residue that shall be to come and unexpired of the sd term of yrs therein unto the sd (P) their hrs and ass or as they shall in that behalf order or direct free from all incumbrances so as for the doing thereof they or any of them shall not be compelled or compellable to go or travel from his her or their usual place of abode And each of them the sd (V) so far as relates to his own acts doth hby covt, &c. (c) with and to the sd (P) their hrs and ass in manner following That for and notwithstanding any act deed matter or thing whatsr by them the sd (V) or either of them They the sd (V) or one of them now have or hath in himself or themselves (good right to convey, &c.) And that it shall and may be lful to and for the sd (P) their hrs and ass from time to time and at all times hrafr subject to and witht prejudice to the term of 500 yrs hereinbefore granted or assured or intended so to be peaceably and quietly to have, &c. (see *Releases, Gen. Prec.*) witht any lful let, &c. of from or by the sd (V) or either of them, &c. (save and except as hnafr is excepted) And that free and clear and freely and clearly and absolutely acquitted exonerated reld and discharged or orwise by the sd (V) their hrs exs or ads well and sufficiently saved harmless and kept indemnified of from und agst all and all manner of former or or. gifts grants, &c. and incumbs whatsr either already or to be hrafr had made, &c. and done by them or any of them save and except the sd term of 500 yrs And furr

Freeholds
by several
Vendors.

Covenants
from
vendors.

(a) (*Mortgagee*) his exs ads or ass.

(b) If it be a mortgage in fee, say, 'grant and convey, &c.' (see *Mortgages, Gen. Prec.*)

(c) If it be a mortgage in fee, say, 'with and to the sd (*mortgagee*) his exs, &c. that he hath good right to grant and convey, &c. subject to the provo or agrt hnbfes contd And also, &c. (covt for peaceable posson subject, &c. free from incumbe) And furr that they the sd (V) and every, &c. shall, &c. at the request costs and chas of the sd (*mortgagee*) his hrs, &c. or of the sd (P) &c. make, &c. for the furr, &c. assuring, &c. unto the sd (*mortgagee*) his hrs, &c. subject as afd (Then add covenants from purchaser to mortgagee for payment of the money, &c. and also from mortgagee to purchaser for quiet enjoyment until default, see *Mortgages, Gen. Prec.*)

Freeholds
for
Annuity.

Covenants
from
purchasers.

that they the sd (V) and every of them their and every of their hrs and all or. psns claiming, &c. by, &c. them or any of them shall, &c. make, &c. (acts for further assurance) And the sd (P) for themselves jly and severally and for their sevl and respive hrs exs and ads do hby covt, &c. with and to the sd (V) and each of them, &c. their and each of their exs, &c. That they the sd (P) or one of them their or one of their hrs exs and ads shall and will, &c. (covt to pay mtge money, see *Mortgages, Gen. Prec.*) And also that it shall and may be lful for the sd (V) or every of them their and every of their hrs and ass from time to time and at all times after deft shall be made in paymt, &c. peaceably and quietly to enter into, &c. with any let, &c. of from or by the sd (P) or either of them their or either of their hrs, &c. according, &c. And moreover that they the sd (P) and their hrs, &c. (covt for furr assurance) Provided lastly, &c. (covenant from vendors for quiet enjoyment until default, see *Mortgages, Gen. Prec.*) In Witness, &c.

Conveyance by a Vendor to a Purchaser in Consideration of an Annuity secured to the Vendor for Life.

Obs. It seems that in the case of a *bona fide* sale of landed property, where the consideration is an annuity to be paid to the vendor, the *ad valorem* duty is not chargeable, *James v. James*, 2 B. and B. 702; *Blandy v. Herbert*, 9 B. and C. 396.

Recitals.
Contract
for purchase.

This Indre made, &c. Betn (vendor) of, &c. of the first pt (purchaser) of, &c. of the second pt and (trustee) of, &c. a trustee named on behalf of the sd (V) of the third pt Whas the sd (P) hath contracted with the sd (V) for the absolute purchase of the fee simple and inhance of the sd messe, &c. intended to be hby conveyed in consideration of him the sd (P) securing to the sd (V) a clear annuity of £— during his life in the manner hnaftmentd Now this Indre Witnesseth That in pursuance of the sd agrt and in conson of the preses He the sd (V) Hath granted bargained sold aliened and released and by, &c. Doth grant, &c. unto the sd (P) All that messe, &c. And the revn, &c. And all the este, &c. of him the sd (V) of in to and out of the sd messe, &c. (in the actual possession of the sd (P) being by virtue of a bargain and sale, &c. see *Releases, Gen. Prec.*) To Have, &c. unto the sd (P) and his hrs but nevss to the uses and for the intents and purps hnaft mentd that is to say To the use and intent that the sd (V) shall and may have receive and take yearly and evy yr during the term of his natural life the sd annty or clear yrly sum of £—of good and lful, &c. to be issuing and paye out of the sd messe, &c. and preses by four equal quarterly payments

Habendum
to purchaser.

Upon trusts

on the feasts and days hnaft mentioned, i. e. the feast, &c. in every yr witht any abatement, &c. (see *Annuity, Gen. Prec.*) the first quarterly paymt to be made, &c. and a proportional part, &c. *And to the furr use and intent that, &c. (Powers of distress and entry, see Annuity)* And subject to the sd annty and the powers and remedies for enforcing payment of the same *To the use of the sd A B his exs and ads for the term of 99 yrs but upon the trusts and to and for the ends intents and purps hnaft decl'd or expsd of and concerning the same that is to say Upon Trust to permit and allow the sd (P) his hrs and ass to rece and retain the yrly rents and prfts to and for his and their own use and bent until some deft shall happen to be made in the payment of the sd annty and after default Upon Trust (to receive arrears out of rents, &c.)* And in case the rents and prfts of the sd preses shall be insufficient then in trust that he the sd (T) shall or may by mtge sale or or. disposition of, &c. raise levy and pay so much of the sd annty, &c. as shall be in arrear and after payment, &c. (to pay surplus to the purchaser) *And it is hby expssly decl'd, &c. (trustee's rectx to be sufficient discharges, see Annuity, Gen. Prec.)* And the sd (V) for himself, &c. doth hby covt, &c. (covts by vendor for title, &c. see *Releases, Gen. Prec.*) And the sd (P) for himself, &c. doth hby covt, &c. (covt by purchaser to pay annuity and also to insure and keep insured, see *Annuity, Gen. Prec.*) *In Witness, &c.*

Copy-
holds.

To the use
of trustee.

Upon trusts

Covenants
from ven-
dor for
title.

From pur-
chaser to
pay, &c.

Conveyance of Copyholds.

Obs. 1. Copyholders, being mere tenants at will, cannot alien their estates by feoffment, or other assurance at common law, but they may transfer them, by surrendering or yielding them up to the lord of the manor, in trust to be again granted to such person and for such uses as are mentioned in the surrender, 1 Watk. Cop. 52. The surrender must be presented by the jury, or homage of the manor, and the lord grants the land to the person therein named, and thereupon admits him tenant to the copyhold, and the admittance is entered on the court rolls of the manor, 2 Comm. 366-70. But if the surrender be taken out of court, and no immediate admission be made, the memorandum of the taking such surrender, signed by the surrenderor and the lord or steward taking it, should be produced or certified on admittance being requested at a future time, 1 Watk. Cop. 81. In the purchase of copyholds, it is usual either to enter into a covenant to surrender, which is followed by an actual surrender, or to make a previous surrender, which is the safer course, and immediately after, for the vendor to execute a deed of covenants.

Copyholds
conveyed
by sur-
render.

2. Although the legal estate of copyholds can be conveyed only by surrender, yet the equitable estate may pass by bargain and sale, or any other mode of conveyance, *Doe v. Nicholls*, 1 B. and C. 336, operating not by the statute of uses, but by the common law, 1 Prest. Abs. 202. The enrolment of the deed, in that case, will not be

By bargain
and sale.

Copyholds necessary, unless required by the Act or instrument creating the power, *ib.* If an authority or power be given to a person to sell, he may exercise it, and the vendee or appointee shall be in by the original instrument, without any new surrender to his use, 2 Wils. 400. As to the mode of conveying copyholds by tenant in tail, see *Fines and Recoveries*, vol. ii. p. 108.

3. A surrender may be made by attorney as well as in proper person, Co. Cop. 134, and a tenant may be admitted by attorney; but it seems that the lord was not formerly compellable to admit him, but now, by the 1 W. IV. c. 65, infants may be admitted to copyholds by their guardians, *femes covert* by attorney, and lunatics or idiots by their committees. As to surrenders by *femes covert*, see *Covenants*; and as to copyholds generally, see *Annuity, Bonds, Fines and Recoveries, Mortgages and Settlements*.

Stamp. 4. In the conveyance of copyholds, the surrender or memorandum thereof, if made out of court, or the copy of court roll of the surrender, if made in court, will be deemed the principal instrument, and charged with the *ad valorem* stamp. See further, *Purchase Deeds*, Pref. § 9.

Deed of Covenants to surrender Copyholds, and for Title to a Purchaser.

Recitals. This Indre, &c. made betw (vender) of, &c. of the one pt and (purchaser) of, &c. of the or. pt *Whas* the sd (V) is seised or possessed of or orwise entitled unto the messe or tent and hereds hnaft described for an absolute este of inheritance according to the custom of the manor of in the co. of (a) *And whas* the sd (P) hath contracted with the sd (V) for the absolute purchase of the sd copyhd lds at or for the price of £ —

Testatum. Now this Indre Witnesseth, &c. That in conson of the sum of £ — of, &c. to the sd (V) in, &c. by the sd (P) at, &c. the rect whereof the sd (V) doth hby acknge, &c. and of and from the same doth acquit rele and discharge the sd (P) his hrs exs and ads and every of them for ever by these prests He the sd (V) for himself his hrs exs and ads doth hby declare and agree with and to

(a) If a surrender has been previously made, instead of this recital, say, '*And whas* the sd (P) some time since contracted with the sd (V) for the purchase of the sd customary or copyhd messe at the price or sum of £ — which sum hath immly before the exon of these presents been duly pd the rect whof he the sd (V) doth hby acknge and of and from the same doth acquit rele and for ever discharge the sd (P) his hrs exs ads and ass for ever *And whas* for the purpe of carrying the same into effect the sd (V) hath this day in conson of the sd sum of £ — so pd to him by the sd (P) as affd surrendered out of court (or at a court holden on, &c.) into the hands of the lord of the sd manor by the acceptance of (steward) of, &c. steward of the sd manor according to the custom of the same manor *All, &c. Now this Indre Witnesseth* That the sd surrender so made shall be and enure to the use of the sd (P) his hrs and ass to be holden at the will of the lord according to the custom of the sd manor *And* the sd (V) doth hby, &c. (covenants for title, as before.)

the sd (P) in manner following that is to say That he the sd (V) or his hrs shall and will on the request and at the costs and chas of the sd (P) his hrs or ass at the next or some or. court to be holden for the sd manor of or out of court as soon as may be surrender into the hands of the lord or lady of the sd manor for the time being *All that messe, &c. To the use of the sd (P) his hrs and ass To the intent that the sd (P) or his hrs may be admitted a tenant or tenants at the will of the lord according to the custom of the sd manor and by the rents suits and services therefore due and of right accustomed And the sd (V) for himself, &c. doth covt, &c. (covts for title, see Releases, Gen. Prec.)*

In Witness, &c.

Conveyance of Copyholds by a Devisee in Trust, and an Heir at Law.

Obs. The bargain and sale in this case is deemed the principal instrument, and charged with the *ad valorem* duty. As to this mode of conveying copyholds, see *last precedent*, Obs. 2. Stamp.

This Indre made, &c. Betn (vondor) a devisee in trust named in the last will and testament of (testator) late of, &c. decd of the first pt (heir at law) of, &c. being the customary heir of the sd (testator) of the second pt and (purchaser) of, &c. of the third pt Whas (recite devise to trustee for sale) And whas (recite death of testator and probate of will) And whas (recite contract for purchase) Now this Indre Witnesseth That in conson of £ — of lful, &c. to the sd (V) in hand, &c. by the sd (P) at, &c. pd the rect whereof the sd (V) doth hby acknge and thereof and therefrom doth acquit rele and for ever discharge the sd (P) his hrs exs and ads He the sd (V) with the privity and consent of the sd (H) testified by his being a pty to and signing and sealing these prests and pursuant to the power to him given and reserved in and by the sd hnbefe recited will and of all and evy or. power or authty enabling him in that behalf Hath as far as he lfully can or may according to the custom of the sd manor bargained and sold and by these prests Doth bargain and sell unto the sd (P) All that one copyhd messe, &c. To be had and Holden by him the sd (P) and his hrs and ass for ever at the will of the lord according to the custom of the sd manor under and subject to the rents, &c. And the sd (V) for himself, &c. (covt that he has done no act to incumber) And the sd (H) as the heir at law and customary hr of his sd late father (testator) decd for himself, &c. doth hby covt promise and agree with and to the sd (P) his hrs and

Copyholds

Stamp.

Recitals.

Testatum.

Habendum.

Covenant by trustee; by heir at law.

Lease-holds. ass that he the sd (*H*) and his hrs doth and do and shall and will warrant(*a*) and for ever defend unto the sd (*P*) his hrs and ass according to the custom of the sd manor the sd messe or tent and preses hhy bargained and sold with all and singr the respive rights members privileges and apts thereunto belonging agst him the sd (*H*) and his hrs and against all and evy or. psn and pens whomsr lfully equitably or rightfully claiming or to claim by from through under or in trust for him them any or either of them or by from through under or in trust for the sd (*testator*) his late father decd *In Witness, &c.*

Warranty.

Conveyance of Leaseholds for Lives by Devisees in Trust, the Heir at Law and Celles que Trust.

Obs. 1. As an estate for life is a freehold, it must be conveyed by lease and release or other conveyance under the Statute of Uses, unless it be done by livery of seisin.

2. As to the stamp, see *Purchase Deeds*, Pref. § 9.

Recital of lease for three lives. *This Indre made, &c.* Betn (*devisees*) devisees named in the will of, &c. of the first pt (*heir at law*) eldest son of the sd (*testator*) of the second pt (*celles que trust*) of, &c. of the third pt and (*purchaser*) of, &c. of the fourth pt *Whas* by indre bearing date, &c. perfected by livery of seisin and made betn the Right Revd Father in God John Ld Bishop of of the one pt and the sd (*testator*) decd of the or. pt For the consons therein mentd the Right Revd Father did demise to the sd (*T*) decd his hrs and ass *All that farm, &c.* with the apts (the advowson of the vicarage and all manner of great tithes and wood, &c. excepted) *To Hold* the same unto the sd (*T*) during the natural lives of (*nominees*) and the life of the longest liver of them at and under the ancient yrly rent or sum of £ — and also the additional yrly rent of £ — making togr the yrly rent or sum of £ — paye half-yrly at the days and times and in manner therein mentd and subject to the covts and agrts in the sd indre of lease contd on the pt of the lessee his hrs and ass to be pd done and performed *And whas* the sd (*T*) duly made and published his last will and testament in writing bearg date, &c. and thby gave devised and bequeathed all his real estes of what nature or kind soever And all the rest of his psl este subject to the uses of his settlemt upon his marre and also to the paymt of his debts unto and to the use of his brothers the sd (*devisees*) their hrs and ass *News* upon the sevl

Of will devising the leasehold estate.

(*a*) As to warranty, see *Purchase Deeds*, Pref. § 8, and *Proffment*, Pref. § 5.

trusts thereafter-mentd that is to say that they the sd (D) as soon as conveniently might be by and out of the rents of his real este and the principal money of his psl este should renew the lease of his the sd (T's) este at which he held of the lordship of for 3 lives, &c. as often as necessary *In Trust* for his son first attaining the age of 21 yrs And he thereby also gave and devised to his younger children the sum of £ — in addition to the portions provided for them by the settlemt and he directed the sd (*devisees*) to apply the int thereof for the maintenance and education of the sd (*celles que trust*) till 21 And *whas* (recite death of testator leaving three chiln, also probate of will, &c.) And *whas* the sd (H) and (*celles que trust*) have all attained the age of 21 yrs And *whas* (recite contract for sale) *Now this Indre Witnesseth* That in pursuance of the sd agrt and in conson of the sum of £ — of, &c. to the sd (D) in hand, &c. by the sd (P) at, &c. pd the rect whereof they and each of them do hby acknge, &c. and also in conson of 5s. to the sd (H) and (C T) in, &c. They the sd (D) *Have* and every of them *Hath* bargained sold aliened and reld and by, &c. *Do* and each of them *Doth* bargain, &c. and the sd (H) *Hath* granted bargd sold aliened reld and confirmed and by, &c. *Doth* grant, &c. And the sd (C T) *Have* and each of them *Hath* remised reld and for ever quitted claim and by these prests *Do*, &c. remise, &c. unto the sd (P) (in his actual posson, &c.) and his hrs and ass *All that*, &c. And all the este, &c. *To Have*, &c. the sd messe, &c. and all and singr or. the preses hby granted and reld or intended so to be with the apts unto the sd (P) his hrs and ass for and during the lives of the sd (*nominees*) and the longest liver of them And each of them the sd (D) for himself separately, &c. (covt that they have done no act to incumber, see *Index*) And the sd (H) for himself, &c. doth hby covt, &c. in manner following that is to say That the yrly rents and covts reserved and contd in the sd in pt recited indre of lease of on the pt of the lessee to be pd kept done and performed have been pd, &c. up to the day of the date of these prests And that for and notwithstanding any act matter or thing whater by the sd (D and H) or any of them or by the sd (T) made done committed or suffered to the contrary the sd indre of lease is a good valid and subsisting lease in the law of and for the preses hby granted and demised and in no wise forfeited surrendered made void or voidable And that for, &c. They the sd (D) and (H) and the sd (C) or some or one of them have or hath in themselves himself or herself good right (to grant, &c. see *Releases*,

Lease-holds.

Death, &c. of testator.

Testatum.

Habendum.

Covenants for title.

Lease-holds. Gen. Prec.) unto the sd (P) during the lives of the sd (nominees) and the longest liver of them in manner afd and according to the true intent and meaning of these prests And also that the sd (P) his, &c. shall quietly, &c. have, &c. during the lives of the nominees witht any let, &c. of from or by the sd (D) (H) and (C) or any of them or any or. psn claiming under them or the sd testator afd And that free and clear and freely, &c. exonerated, &c. from all former gifts, &c. and incumbs whatsr (save and except the rents, &c.) And moreover that they the sd (D) and (H) and the sd (C) resply or any of them or any or. person, &c. shall and will make, &c. (Acts for Further Assurance) And the sd (P) for himself, &c. doth covt, &c. (to pay rent and indemnify vendor, see *Assignment of a Lease*, vol. i. 170) In Witness, &c.

Assignment of Leasehold Property by Executors.

Obs. 1. An executor or administrator may sell a term, where there are debts, without the concurrence of the devisee, and a purchaser is not bound to see to the application of the purchase money, nor need there be any recital in the assignment of the purpose for which it is sold; *Benney v. Lidgard*, 1 Cox Ca. 145; but if sold at an under value, or the purchaser knew there were no debts, or that the debts were or could be paid, such a sale is held to be fraudulent against the persons interested in the premises under the will; *M'Leod v. Drummond*, 17 Ves. 168. To obviate all questions, it is prudent to obtain the concurrence of the devisee.

2. An executor, as such, is not bound to enter into any covenant, except that he has not incumbered; but the purchaser must covenant for indemnity against payment of the rent and performance of the covenants, although he cannot have a covenant for title; *Staines v. Morris*, 1 V. and B. 12.

3. There can be no parol assignment of a lease (see *Assignments*, vol. i. p. 168.) It has been held that the parol assignment of a parol lease is void, under the Statute of Frauds; *Bottery v. Master*, 1 Campb. 317.

This Indre made, &c. Betn (vendors) executors named in and appted by the last will and testmt of A B late of, &c. decd of the first pt (devisee) of, &c. a devisee named in the sd will of the sd A B of the second pt and (purchaser) of, &c. of the third pt Whas (recite original lease, see Assignment of a Lease) And whas (recite assignmt to the sd A B) And whas the sd A B duly signed and published his last will and testament in writing bearing, &c. and thby inter alia gave and bequeathed the sd pce or pcl of grd messe or tent and preses so assd to him as afd unto the sd (devisee) his nephew And whas (recite death and probate of will, And whas (recite contract for purchase) Now this Indre Witnesseth That in conson of £ — of lful, &c. to the sd

(E) in, &c. pd by the sd (P) at, &c. the rect whereof they the sd (V) do and each of them doth hby acknge and of and from the same do and each of them doth acquit rele and for ever discharge the sd (P) his hrs exs and ads by these presents and also in conson of 5s. to the sd (D) in, &c. they the sd (V) as such exrs as afd and so far as they resply can or may do at law or in equity but not furr or orwise and with the privity and approbation of the sd (D) testified, &c. *Have* and each of them *Hath*, &c. bargained, &c. and by, &c. *Do* and each of them *Doth*, &c. And the sd (D) *Hath* granted bargd sold assd and confirmed and by, &c. *Doth*, &c. *All that* piece, &c. and all and singr or. the preses comprised in the sd in pt recited indre of And all the este, &c. of them the sd (V) of in and to the sd messe, &c. *To Have*, &c. unto the sd (P) henceforth for and during the rest and residue to come and unexpired of the sd term of yrs subject nevss to the rent and covts in the sd in pt recited indre reserved and contd on the tenant's or lessee's pt to be pd done and observed And each of them the sd (V) so far as relates to his own acts and deeds only and not furr or orwise doth hby for himself his exs, &c. covt, &c. with the sd (P) his, &c. (that they have done no act to incumber) And the sd (D) for himself his exs, &c. doth hby covt, &c. in manner following that is to say That for and notwithstanding any act by him or the sd A B decd committed, &c. the lease is a good, &c. And that notwithstanding such act, &c. he the sd (D) hath (good right to assign) And furr that he the sd (P) his exs ads and ass shall and lfully may peaceably and quietly have hold, &c. the sd piece, &c. witht the let, &c. of, &c. the sd (D) his, &c. or any or. psn or psns claiming or to claim by, &c. or in trust for him or them or by, &c. the sd A B decd And that free, &c. and freely, &c. exonerated, &c. and indemnified of from, &c. all former and or. estes, &c. and incumbys whatsr either already or at any time hrafr to be made, &c. by the sd (D) his, &c. or any or. psn, &c. claiming, &c. by from, &c. him or them or by from, &c. the sd A B decd save and except the rents and covenants in and by the sd in pt recited indre of lease reserved and contd And moreover that he the sd (D) his, &c. and all and evy psn, &c. claiming, &c. by from or in trust for the sd (D) or by, &c. the sd A B shall and will make, &c. (Acts for Further Assurance) And the sd (P) for himself, &c. doth (covenant to pay rent, &c. see *Assignment of a Lease*, vol. i. p. 168.)

Lease-holds.

No act to incumber.
Covenants for title.

Covenant from purchaser.

*Lease-
holds.*

Conveyance of a Leasehold by a Mortgagee under a Power of Sale where the Mortgagor does not concur.

*Recitals.
Original
lease.*

*This Indre made, &c. Betw (vendedor) of, &c. of the one pt and (purchaser) of, &c. of the or. pt Whas by an indre bearing date on or about the day of and made betw W H therein described of the first pt J W therein also described of the second pt and F I therein also described of the third pt For the consons therein expssd and decl'd the sd W H at the request and by the direction of the sd J W did grant and demise and the sd J W did ratify and confirm unto the sd F I his exs ads and ass *All that pce or pcl of grd situate and being in or near, &c. in the parish of in the co. of containing the sevl dimensions set forth in the ground plot or plan drawn in the margin of the sd indre now in recital Togr with the newly-built messe or tent thereon To Hold the same unto the sd F I his exs ads and ass from the day of then last past for the term of 99 yrs wanting 21 days to be computed from the day of 18 at the yrly rent of £ — paye quarterly as therein mentd And under and subject to the covts provos and agrts therein contd and on the pt of the sd F I his exs ads and ass to be pd done observed and performed And whas by an indre of assignment bearing date, &c. and made betw the sd F I of the one pt and the sd (V) of the or. pt It was witnessed that in consen of the sum of £ — to the sd F I pd by the sd (V) he the sd F I did grant bargain sell and demise unto the sd (V) his exs ads and ass (*inter alia*) all the sd pce and pcl of grd messe or tent and preses To Hold the same unto the sd (V) his exs ads and ass thenceforth for all the then residue of the sd term of 99 yrs wanting 21 days except the last six days of the same term at the yrly rent of one peppercorn Subject nevss to a provo or agrt for redemption therein contd And it was in and by the sd indre now in recital further decl'd and agrd that in case deft should be made in paymt of the sd sum of £ — or of any pt thereof or of the int thereof or of any pt thereof by the space of 14 days next after any or either of the sevl days of paymt therein-befed appted for payment thereof then and at any time or times thereafter it should be lful for the sd (V) his exs ads or ass and he and they were thby authorized and empowered either immly or at any time or times thrafr witht any furr consent or concurrence of the sd F I his exs ads or ass to make sale and absolutely to sell and dispose of the sd preses or any pt or pts thereof togr**

*Mortgage
by way of
under lease.*

*Lease-
holds.*

with their and evy of their ap^ts either togr or in pels and by public sale or private contract to any p^{sn} or p^{sn}s willing to become the purchaser thereof resply *And* it was furr decl^d and agr^d that the rect^s of the sd (*V*) his exs ads and ass should be a valid and sufficient discharge for the sums of money which should be thby expsd to be recd and that the p^{sn} or p^{sn}s to whom the same should be given his her or their exs ads or ass should not be answerable or accountable for any loss misapplication and non-application of the money therein mentd and ackngd to be recd and should not be bound to ascertain or inquire whether such sale or sales was or were necessary or expedient or whether de^{ft} had been made in paymt of the principal and int mos thby secured or any pt or pts thereof resply *And whas* no pt of the sd sum of £ — or of the int thereof hath ever been pd and the este and int of the sd (*mortgagee*) in the sd preses is become absolute at law during the residue of the sd term of 99 yrs now to come and unexpired *And whas* the sd (*V*) in pursuance of the power or authy given to or vested in him by the sd hnbefe in pt recited indre hath contracted and agr^d with the sd (*P*) for the sale to him of the sd pce or pcl of gr^d messe or tent and preses comprised in the same indre with the ap^ts for the residue of the sd term now vested in him the sd (*V*) as afd at or for the price of £ — *Now this Indre Witnesseth* That in pursuance of the sd agrt and in conson of the sum of £ — of l^{ful}, &c. by the sd (*P*) in, &c. to the sd (*V*) at, &c. pd the rect whereof he the sd (*V*) doth hby acknge and of and from the same doth acquit, &c. the sd (*P*) his exs, &c. for ever he the sd (*V*) *Hath* bargained sold assd transferred and set over and by, &c. *Doth* bargain sell, &c. unto the sd (*P*) his exs, &c. *All that*, &c. and the preses comprised in the sd in pt recited indre of And all the este, &c. of him the sd (*V*) of ln and to the sd pce, &c. hby assd or orwise assured or intended so to be *To Have and to Hold* the sd piece, &c. and all and singr or. the preses hnbefe assd, &c. unto the sd (*P*) his exs ads and ass henceforth for and during all the residue and remr which is now to come and unexpired of the sd term vested in the sd (*V*) by the sd hnbefe in pt recited indre of *And* the sd (*V*) for himself his hrs exs ads and ass doth hby covt and declare with and to the sd (*P*) that he the sd (*V*) hath not at any time or times heretofore made done committed or exted or knowingly or willingly suffered or been party or privy to any act deed or matter or thing whatsr whby or by reason or means whereof the sd pce or pcl of gr^d messe or tent

No act to
incumber.

Freeholds, and preses hby assd or intended so to be or any pt or
Copyholds pts thereof are is can shall or may be in any wise im-
and peached charged affected or incumbered in title charge
Lease- este or orwise In Witness, &c.
holds.

*Conveyance of Freeholds, Copyholds, and Leaseholds to
 a Purchaser by Mortgagees for a Term, Devisees for
 Life and in Remainder, and Trustees for Sale.*

Recitals.

Apportion-
 ment of
 purchase
 money.

*This Indre made, &c. Betn (mortgagees) of, &c. of
 the first pt (trustees) of, &c. trustees named in the will
 of A B late of, &c. decd of the second pt (devisees) of,
 &c. of the third pt and (purchaser) of, &c. of the fourth
 pt Whas (recite conveyance of freeholds and grant of
 leaseholds to testator) And whas (recite seisin of copy-
 holds) And whas (recite mortgage of freeholds and
 leaseholds by testator for a term of 500 yrs) And whas
 (recite will of the testator whereby he devised all his
 estates to trustees to sell) And whas (recite death of
 testator and probate of the will) And whas (recite that
 mortgage money was still due but that all interest was
 paid up to the day) And whas (recite contract for pur-
 chase) And whas (a) in order that a distinct consen for
 the sd freehold leasehold and copyhold heredit may be
 set forth in or upon the principal or only instrment of
 conveyance relating thereto resply it is agrd by the
 pties to these prests and they have thought fit that the
 sd purchase money or sum of £ — shall be divided and
 apportioned in manner hnaft mentd that is to say the
 sum of £ — as and for the price for the purchase of
 the freeholds the sum of £ — as and for the price of
 the leaseholds and the sum of £ — as and for the
 price of the copyhd heredit Now this Indre Witnesseth
 That in pursuance of the sd in pt recited contract
 and in consen of the sum of £ — being pt of the
 sd sum of £ — apportioned as the price for the pur-
 chase of the freehold heredit afd at the request and
 by the direction of the sd (T) testified by their signing
 and sealing these prests to the sd (M) in hand, &c. pd
 by the sd (P) at, &c. the rect and paymt of which sd
 sum of £ — the sd (M) the sd (T) and the sd (D) and
 evy of them Do and Doth hby resply acknge and of and
 from the same and evy pt thereof do and evy of them
 doth acquit rele and discharge the sd (P) his hrs exs
 and ads for ever And also in consen of the sum of £ —
 the remaining pt of the sd sum of £ — so appor-
 tioned as afd to the sd (T) in, &c. pd by the sd (P)*

(a) As to the apportionment of the consideration money, in
 respect to the duty, see Pref. § 9.

the rect, &c. They the sd (*M*) at the request and by the direction of the sd (*T*) and at the nomination of the sd (*P*) testified as afd *Have* and each of them *Hath* bargained sold surrendered and yielded and by these prests *Do* and each of them *Doth* bargain, &c. unto the sd (*P*) his exs, &c. *All those*, &c. for the residue of the sd term of yrs To (*a*) the intent that the sd term of yrs granted to the sd (*M*) in and by the sd in pt recited indre of may so far as the same concerns the heredit hby granted and reld or orwise assured or intended, &c. be merged or orwise extinguished And to the intent that the same heredit may henceforth be freed and exonerated and discharged from the sd sum of £ — and int secured to them as afd And they the sd (*T*) and (*D*) *Have* and each of them *Hath* granted bargained sold reld and confirmed and by, &c. *Do* and each of them *Doth* grant, &c. unto the sd (*P*) his hrs and ass (in the actual possession of the sd (*P*) being, &c. see *Releases, Gen. Prec.*) *All those*, &c. (*parcels*) And all houses, &c. and the revn, &c. and all the este, &c. of them the sd (*M*) (*T*) and (*D*) of in to and out of the sd messe, &c. And all deeds, &c. Togr with true and attested copies of all deeds evidences and writings relating to or concerning the sd messes, &c. or any of them jly with or. heredit of greater value the first set of such copies to be made and delivered at the costs and chas of the sd (*T*) but all future copies to be made written and taken at the request costs and chas of the sd (*P*) his hrs and ass *To Have and to Hold* the sd messes, &c. unto the sd (*P*) his hrs and ass for ever (here add, if necessary, a declaration to bar dower and for variations to bar dower, either in the old or the new form, see *Dower*, vol. ii. p. 72) And each of them the sd (*M*) and (*T*) doth hby for himself his hrs exs and ads and so far as concerns his and their own acts, &c. only covt and declare with and to the sd (*P*) his hrs and ass that they the sd (*M*) and (*T*) have, &c. (done no act to incumber) *And this Indre furr Witnesseth* That in furr pursuance of the sd agrmt and in conson of the sum of £ — being the pt of the sd sum of £ — apportioned as the price of or conson for the purchase of the sd leasehold preses so pd by the sd (*P*) to the sd (*M*) as afd the rect, &c. And also in conson of 5s. a piece to the sd (*T*) and (*D*) in, &c. by the sd (*P*) at, &c. the rect, &c. they the sd (*M*) at the request, &c. of the sd (*T*) and (*D*) and at the nomination of the sd (*P*) testified as afd *Have* and each and evy of them

*Freeholds,
Copyholds
and
Lease-
holds.*

(*a*) For variations, where the term is kept on foot and assigned to a trustee, see *former precedent*.

Freeholds, Copyholds and Lease holds. *Hath* bargained sold assigned transferred and set over and by, &c. *Do*, &c. and each doth bargain, &c. And the sd (T) and (D) at the like nomination, &c. *Have* and each, &c. *Hath* granted bargained sold assigned, &c. and by, &c. *Do* and each, &c. *Doth* grant, &c. unto the sd (P) his exs ads and ass *All those*, &c. comprised in and demised by the sd in pt recited indre of lease (or assignment) of with their respive apts And all the este, &c. *To Have and to Hold* the sd messes, &c. And all and singr or. the preses hby assd or orwise assured or intended so to be with their apts unto the sd (P) his exs, &c. for and during all the residue now to come and unexpired of the sd term of yrs *Subject* nevss to the paymt of the rent and performance of the covts and agrmts thby reserved and contd and henceforth on the tenant's or lessee's pt and behalf to be pd kept done and performed *And this Indre furr Witnesseth* That in conson of the sum of £ — being the remaining pt of the sd sum of £ — apportioned as the price or conson for the purchase of the sd copyhold preses hnaft covtd to be surrendered at the request and by the direction of the sd (D) testified, &c. as afd to the sd (T) well, &c. pd by the sd (P) at or before, &c. the rect whereof the sd (T) do hby acknge, &c. They the sd (T) and (D) for themselves sevly and for their respive hrs exs and ads covt promise and agree with and to the sd (P) his hrs and ass That they sd (T) (D) and all necessary pties shall and will forthwith as soon as conveniently may be at the request costs and chas of the sd (P) his exs ads or ass surrender or cause to be surrendered into the hands of the lord or lords lady or ladies for the time being of the sd manor of according to the custom of the same manor *All that*, &c. unto and to the use of the sd (P) his hrs and ass for ever at the will of the lord according to the custom of the sd manor *And* the sd (D) for themselves sevly and resply and for their respive hrs exs ads and ass covt, &c. with, the sd (P) his hrs and ass in manner following that is to say That for and notwithstanding any act, &c. made, &c. by the sd (T) and (D) or any of them they the sd (D) some or one of them are or is now lfully and rightfully seised of the sd frechd hereds and preses for an este of inhance in fee simple and are and is seised of the copyhold hereds for an absolute este of inhance according to the custom of the sd manor witht any manor of condon, &c. (see *Releases, Gen. Prec.*) And also that the sd recited indre of lease of is a good sufficient valid and subsisting lease in the law not forfeited surrendered or in anywise rendered void or

Covenants for title.

Lawfully seised.

Good right to convey.

voidable *And also* that for and notwithstanding such act, &c. they the sd (*D*) some or one of them have, &c. good right, &c. to grant rele surrender and assign the sd freehd copyhd and leasehd preses respby with their respive apts unto, &c. *And furr* that it shall, &c. be lful, &c. for the sd (*P*) his hrs exs ads or ass from time to time and at all times in respect of the sd freehd and copyhd heredit respby peaceably, &c. to have, &c. the sd freehd and copyhd heredit and preses hby reld and covtd to be surrendered with the apts and to rece and take the rents issues and prfts thereof *And also* from time to time hrafr during the continuance of the sd term of yrs peaceably and quietly to enter upon the sd leasehold heredit and preses respby hby assd or intended so to be and evy pt thereof and to rece and take, &c. witht any let, &c. of from or by the sd (*D*) or any or either of them or of from or by any or. psn or pns claiming by from, &c. them or any or either of them or the sd (*testator*) *And that* free, &c. and freely, &c. acquitted, &c. or orwise by the sd (*D*) or one of them their or his hrs exs or ads, &c. well and sufficiently saved harmless and kept indemnified of from and agst all and all manner of, &c. and incumbrances, &c. save and except the rents fines and services henceforth to become due or to be performed in respect of the sd copyhd heredit and preses to the lord, &c. for the time being of the sd manor of and also save and except the rents and covts in the sd indre of lease reserved and contd and henceforth on the tenant's or lessee's pt and behalf to be pd kept done and performed *And moreover* that they the sd (*D*) respby and their respive hrs exs ads and ass and all and evy or. psn or pns having or lfully or equitably claiming any este right title, &c. of in to or out of the sd freehd copyhd and leasehd heredit and preses respby hby reld assd and covtd to be surrendered as afd or any of them or any pt thereof by from, &c. them or any or either of them or the sd (*testator*) decd shall and will from time to time and at all times in respect of the sd freehd and copyhd heredit and at all times during the sd term of yrs in respect of the sd leasehold heredit upon evy reasonable request and at the proper costs and chas of the sd (*P*) his hrs, &c. make, &c. acts, &c. for granting releasing assigning surrendering and assuring the sd freehd copyhd and leasehd heredit and preses hby reld assd and covtd to be surrendered with their and evy of their rights members and apts unto the sd (*P*) his hrs exs ads or ass or as he or they shall direct or appt or as by him or them or his or their counsel in the law

*Freeholds,
Copyholds
and
Lease-
holds.*

*Quiet en-
joyment.*

*Further
assurance.*

*Equity
of
Redemp-
tion.*

*Covenant
from pur-
chaser.*

shall be reasonably advised devised or required *And* he the sd (*P*) for himself his hrs, &c. doth hby covt, &c. with, &c. the sd (*D*) that he the sd (*P*) his exs ads and ass shall and will at all times during the continuance of the sd term of yrs pay the rent and observe and perform the covts agrmts and condons in and by the sd in pt recited indre of lease reserved and contd And also shall and will, &c. (indemnify the trustees, &c. see *Assignment of a Lease*, vol. i. p. 170.)

Conveyance of an Equity of Redemption.

Obs. 1. An equity of redemption, is an estate in the land, and not a *chose in action*; and may be assigned, granted, devised, or entailed; *Casborne v. Scarfe*, 1 Atk. 604. *Blake v. Johnson*, Prec. in Chan. 142.

2. The usual mode of conveying an equity of redemption, is by lease and release; but when it is to be conveyed to the mortgagee, a mere release endorsed on the mortgage deed is sufficient.

3. In order to obviate the questions which have frequently arisen between the real and personal representatives of the purchaser of an equity of redemption, it may, in many instances, be desirable to add a proviso, declaratory of the intentions of the party. *Evelyn v. Evelyn*, 2 P. Wms. 664. *Tweddel v. Tweddel*, 2 B.C.C. 101, 152. *Butler v. Butler*, 5 Ves. 534.

Recitals.

This Indre made, &c. Betn (vondor) of, &c. of the one pt and (purchaser) of, &c. of the or. pt Whas (recite mortgage) And whas there now remains due and owing to the sd (mortgagee) upon and by virtue of the sd in pt recited mtge secty the sd principal sum of £ — and no more all int for the same to the day of the date of these prests having been fully pd to the sd (M) And whas the sd (V) hath contracted and agrd with the sd (P) for the absolute sale of the inhance and equity of redemption of the sd messe, &c. at or for the price or sum of £ — Now this Indre witnesseth That in conson of the sum of £ — to the sd (V) in, &c. by the sd (P) at, &c. pd the rect whereof the sd (V) doth hby acknge, &c. he the sd (V) Hath granted bargained sold aliened released and confirmed and by, &c. Doth grant, &c. unto the sd (P) (in his actual posson, &c.) and to his hrs, &c. all, &c. And all houses, &c. And the revn, &c. And all the este, &c. To Have and to Hold the sd messe, &c. unto the sd (P) his hrs and ass for ever Subject nevss to and charged and chargeable with the afd mtge to the sd (M) and the paymt of the sum of £ — and the int to accrue and grow due for the same And the sd (V) for himself his hrs exs and ads, &c. doth hby covt, &c. with and to the sd (P) his hrs exs ads and ass in manner following that is to say That for and notwithstanding any act deed matter or thing

Habendum.

*Covenants
for title.*

*Equity of
Redemption.*

whatsr by him the sd (V) made done committed or executed to the contrary he the sd (V) at the time of signing and sealing these presents subject to the sd sum of £ — and int thereon is lfully and justly entitled to the equitable inhance and right of redemption of the sd messe, &c. hby granted or intended so to be And that he now hath in himself good right full power and lful and absolute authty to grant the same to him the sd (P) his hrs and ass for ever in manner afd and according to the true intent and meaning of these prests And also that the sd messe or tent and preses are not to the knowledge of the sd (V) in anywise charged or chargeable with or subject to any sum or sums of money or or. payments or incumbs whatsr or. than the sd sum of £ — secured as afd by the indres hnbeffe mentd and recited with the int thereupon to become due (save legal taxes and quitrents) And that he the sd (V) hath not heretofore done or willingly suffered any act matter or thing whby the equity of redemption of the sd messe, &c. hby granted or intended so to be can or may be released discharged granted conveyed or anywise incumbered And further that he the sd (P) and his hrs shall and may peaceably and quietly have, &c. the sd preses hby granted and reld or orwise assured or intended so to be witht the let suit hindrance and denial of the sd (V) his hrs or ass or any or. psn, &c. claiming or to claim by from or under him (save and except the sd (M) his hrs and ass in respect of the sd mtge and the int thereof as afd) And that free and clear, &c. (see *Releases, Gen. Prec.*) save and except as hnbeffe mentd And furr that he the sd (V) his hrs and ass and all and evy or. psn or psns who shall or may have or claim any este right title or int of in to or out of the sd preses hby granted and reld or orwise assured or intended so to be with their apts or any pt thereof by from or under him (other than and except the sd (M) his hrs and ass in respect of the sd mtge, &c. and int thereof as afd) shall, &c. from time to time and at all times hereafter at the reasonable request and proper costs and chas of the sd (P) his hrs and ass make do and exte or cause, &c. all and evy such furr and or. lful and reasonable acts deeds things conveyances and assurances in the law whatsr for the furr better more perfectly and absolutely conveying and assuring all and singr the sd preses hby reld or orwise assured or intended so to be with the apts unto and to the use of the sd (P) his hrs and ass (subject to the sd mortgage and int thereof as afd) as by the sd (P) his hrs and ass or his or their counsel in the law shall be reasonably advised devised and required And the sd

Equity of Redemption. (P) for himself, &c. doth hby covt, &c. with the sd (V) his hrs, &c. that he the sd (P) his hrs exs ads or ass or some or one of them shall and will well and truly pay or cause to be pd unto the sd (M) his exs ads or ass the sd principal sum of £ — hnbefe mentd to be secured and to be due and owing to the sd (M) upon or by virtue of the sd in pt recited indres of lease and rele And all int from the day last past to grow due in respect thof And also shall and will from time to time and at all times braftr well and sufficiently save defend and keep harmless and indemnified the sd (V) his hrs exs and ads and his and their lds tents goods and chattels of from and agst the sd principal sum of £ — and all int from the sd day of to grow due for or in respect of the same And also of from and agst all and all manner of actions suits and proceedings whatsr which at any time or times shall be brought had commenced or prosecuted agst the sd (V) his hrs, &c. And also all costs chas and dams which he or they shall or may bear pay sustain and be at or be put unto for or by reason or on acct of the sd principal sum of £ — or int to become due in respect thof or any pt thereof or by reason or on acct of the nonpayment of the same sum of £ — and int thereon (a) In Witness, &c.

Release of an Equity of Redemption by Indorsement to a Mortgagee.

Obs. As to the mode of conveying an equity of redemption to the mortgagee, see *last precedent*.

To all, &c. the within-named (*mortgagor*) sendeth greeting *Whas* the within-named (*mortgagor*) hath agrd with the within-named (*mortgagee*) for the absolute sale of the inhance of the messe or tent, &c. within mentd to be granted and released to him for securing the sum of £ — and int *Now these prests witnesseth* That in pursuance of this agrt and in conson of the sum of £ — so due and owing to the sd (*mortgagee*) upon the within-written secty (all int due for the same hav-

(a) If it be necessary, add, ' *Provided always* and the sd (P) doth hby expesly declare and direct that the sd sum of £ — so charged and secured upon the lands and hereds lby granted and reld or orwise assured be taken as the proper debt of him the sd (P) and be charged and chargeable upon and pd off and satisfied out of his personal este and effects accordingly or so far as the same will extend and that the sd lds hereds and mortgaged proses or any of them or the hrs or ass of the sd (P) shall not be or be deemed subject or liable to the payment thereof or of any pt thereof or of any arrears of int due for the same except only so far as the personal este of him the sd (P) shall fall short for that purpose'

ing been pd up to the day of the date hereof which he the sd (*mortgagee*) doth hby confess and acknge) and in satisfaction of the sd sum of £ — so lent to the sd (*mortgagor*) and also in conson of the furr sum of £ — to the sd (*mortgagor*) in hand, &c. by the sd (*mortgagee*) at, &c. making togr the sum of £ — and being in full for the purchase of the sd preses the rect whereof the sd (*mortgagor*) doth hby acknge and of and from the same doth hby acquit rele and discharge the sd (*mortgagee*) his hrs exs and ads for ever He the sd (*mortgagor*) Hath granted and reld and by these prests doth grant, &c. unto the sd (*mortgagee*) and his hrs the proviso or agrmt in the within-written indre contd and all the este right title and int which he the sd (*mortgagor*) now hath or may claim at law or in equity of or in the sd messe hereds and preses comprised in the within-written indre and evy and any of them or any pt thof to the intent that the sd (*mortgagee*) may hrafrt hold and enjoy the sd messes, &c. comprised in the within-written indre unto him the sd (*mortgagee*) his hrs, &c. to his only use freed from the provo for redemption as afd (add covts from mortgagor that he hath done no act to incumber and for further assurance) *In Witness, &c.*

RECITALS.

Obs. As to the importance of recitals in some instances, see *Agreements*, Pref. § 6; and as to other forms of recitals, see *Index*.

Seisin in Fee subject to a Mortgage.

Whas the sd A B decd was at the time of his death seised in fee simple of the messes lds and hereds hnafrt parlarly described and reld or intended so to be with the apts subject to a mortgage thereof made for a term of yrs to (*mortgagee*) of, &c. for securing to him the repayment of the sum of £ — and int which sum is still due and owing but all interest hath been pd up to the day of

Seisin by Virtue of a Deed and Fine.

Whas under and by virtue of a certain indre of threes pts bearing date, &c. and made or expsed to be made betn, &c. and a fine *sur conizance de droit come ceo*, &c. duly levied in his Majesty's Ct of Common Pleas in Hilary term (or, 'in the or following term, as the case

RECITALS.

may be) pursuant to a covenant in that behalf in the sd indre of rele contd wherein the sd A B were plttf and C D and M his wife were deforceants the sd A B became entitled to an absolute este of inlance in fee simple of and in the sd capital messe, &c.

Being possessed of Lands for a Term as Tenants in Common.

Whas under and by virtue of an indre of lease dated on or about, &c. and made betn, &c. the sd A B and C D do hold and enjoy the messe or tent hnaft described togr with divers or. messes lds and hereds for the residue and remr of a term of 99 yrs as tenants in common at under and subject to the yrly rent of £ — paye as therein mentd and to the covts and agrmts in the sd indre of lease mentd and contd on the pt and behalf of the sd A B and C D to be by them resply performed and kept

Being possessed by Virtue of an Assignment.

Whas the sd A B by virtue of an indre of assignment bearing date, &c. and made betn, &c. is possessed of interested in or orwise entitled unto the messe, &c. for the residue of a certain term of yrs

Being indebted upon an Account stated.

Whas upon an acct stated betn the sd A B and C D the sd A B is and stands justly and truly indebted unto the sd C D upon the balance of the same acct in the sum of £ — which the sd A B doth hby acknge

Or upon a Bond.

Whas the sd A B is and standeth justly indebted unto the sd C D in the sum of £ — for principal and int upon a bond or obligation bearing date the day of 18 made and entered into by the sd A B to the sd C D in the penal sum of £ — conditioned for the paymt of £ — and int at a certain time now past

Or upon a Judgment.

Whas the sd A B is and stands indebted unto the sd C D in the sum of £ — for damages and costs of suit in a judgmt obtained in his Majesty's Ct of K B at Westmr in or as of Michaelmas term in the yr, &c. agst the sd A B which he the sd A B doth hby confess and acknge

Another upon two Judgments.

Whas the sd A B decd in his lifetime obtained two sevl judgmts in, &c. at, &c. on or about the day of 18 that is to say one of such judgmts was for the sum of £ — upon and by virtue of a bond entered into by the sd C D to the sd A B in the penal sum of £ — besides costs of suit and the or. judgmt for, &c. as by the records of the sd Ct of K. B. on reference to the same will more fully appear

Writ of Levavi facias.

Whas by virtue of his Majesty's writ of *lev. fac.* directed to the sd late sheriff commanding him to cause to be levied of the goods and chattels of C D the sum of £ — which in the court of our sd lord the king at Westmr was awarded to the sd A B for his dams which he had sustained as well by virtue of not performing certain promises and undertakings made by the sd, &c. to the sd, &c. as for his costs and chas about her suit expended whby the sd, &c. was convicted and to have that money before our sd lord the king at Westmr on next after eight days of the Purification to render to the sd, &c. for his dams as by the sd writ relation being thereto had will more fully appear

Writ of Extent and Inquisition.

Whas by virtue of his Majesty's writ of extent on the sd recognizance directed to the sheriff of, &c. bearing date, &c. commanding him to inquire into and ascertain the value of all the lds and tents in his bailiwick whereof the sd C D was at the time of his entering into the sd recognizance and to cause the same to be delivered to the sd A B at a reasone price and extent *To Hold* to him the sd A B and his ass as his freehold according to the form of the statute in that case made and provided until his sd debt togr with his dams and costs should be fully levied as by the sd extent relation being thereto had will more fully appear

Inquisition.

And whas by an inquisition taken at, &c. on, &c. by virtue of his Majesty's writ of extent it was amongst or. things found that the sd C D was seised in fee at the time of the entering into the sd recognizance and at the time of taking the sd inquisition of and in one

RECITALS.

messe, &c. (describe premises) of the clear yrlly value of £ — above reprises and also of and in, &c. which sd messes lds and preses the sd sheriff on the day of taking the sd inquisition caused to be delivered to the sd A B under and by virtue of the sd recited extent *To Hold* the same unto the same A B and his ass, &c. (*as above*)

Letter of Attorney to receive Rents.

Whas the sd A B by a certain instrument in writing or letter of attorney dated on or about, &c. hath nominated constituted and appted the sd C D to demand recover and receive in the name and for the use of the sd A B by such lful ways and means as may be necessary for such purpe of and from all and evy pson or pens whom it doth concern all rents and arrears of rent for all and evy the messes, &c. situate with such furr powers and authties as are therein mentd

Mortgage of Leaseholds.

And whas by an indre of assignment by way of mortge bearing date, &c. and made betn, &c. the sd (*mortgagor*) in conson of the sum of £ — then advanced to him by the sd (*mortgagee*) did grant and assign unto the sd (*mortgagee*) his exs ads and ass the sevl messes or tents and preses therein and hereinafter parlarly described for all the residue of the sd term (or 'wanting one day') Subject nevss to a proviso in the sd indre of assnmt contd that if the sd (*mortgagor*) his hrs exs or ads shd pay or cause to be pd unto the sd (*mortgagee*) his exs ads and ass the sum of £ — and int on the day of next ensuing the date thereof then the now reciting indre shd cease and be void

Mortgage of Copyholds.

Whas by surrender duly made at a court holden for the sd manor on the day of 18 in pursuance of an indre bearing date the day of preceding and made betn, &c. the same lds and hereds comprised in the sd indre of mortge were surrendered into the hands of the lord of the sd manor to the use of the sd (*mortgagee*) and his hrs subject to a condon or provo therein contained for making void the same on paymt by the sd (*mortgagor*) to the sd (*mortgagee*) of the sum of £ — and int on a day therein mentd

Will of Mortgagee.

And whas the sd (*mortgagee*) duly made and published his last will and testament in writing bearing date on or about day of and exted and attested in such manner as the law prescribes for rendering valid devises of estes of inhance and thby gave and devised unto the sd (*trustees*) their hrs and ass all such real estes as were then vested in him by way of mortge in order to enable them to recover and rece the money secured by such mortge for the purps of the sd will

Death of Mortgagee intestate.

And whas the sd (*mortgagee*) departed this life in or about the month of 18 intestate as to the sd mortge estate vested in him leaving the sd (*heir*) his eldest son and hr at law him surviving and having by his will dated the day of appted the sd (*executor*) his executor who duly proved the sd will in the Prerogative Ct of the archbishop of Canterbury [or 'in the Consistory Ct of ']

Further Sum advanced.

And whas the sd (*mortgagee*) hath since the exon of the sd in pt recited indre lent unto the sd (*mortgagor*) the sum of £ — in addition to the sd sum of £ — therein mentd and intended to be thby secured

Bill of Foreclosure.

And whas the sd (*mortgagee*) did in Hilary Term in the yr of the reign of his present Majesty exhibit his bill in his Majesty's High Court of Chancery agst the sd (*mortgagor*) in order to be pd principal and int mos due on his sd mtge or in deft thereof that the sd (*mortgagor*) might stand absolutely foreclosed of and from all equity and right of redemption of and in the sd mortgaged preses *And whas* by a decree or decretal order of the sd court bearing date on or about the day of and made in the same cause *It was ordered* and decreed that the sd (*mortgagor*) his exs ads and ass should stand absolutely debarred and foreclosed of and from all equity and right of redemption whatsr of in or to the sd mortgaged preses

RELEASES.

Of a Feoffment.

Whas by an indre bearing date, &c. and made or expsd to be made betn (*vendor*) of, &c. of the one pt and (*purchaser*) of, &c. In conson of the sum of £ — pd by the sd (*P*) to the sd (*V*) he the sd (*V*) did grant and enfeoff unto the sd (*V*) his hrs and ass *All* and singr the messe or tent heredit and preses hnaft described and intended to be hby reld *To Hold* the same unto and to the use of the sd (*V*) his hrs and ass for ever (if a power of attorney is given to deliver seisin, add, 'In which sd indre I *P* was duly authorized to deliver seisin of the sd preses to the sd (*P*) according to the tenor of the sd feoffment and seisin was accordingly so delivered as appears by a memorandum endorsed on the same indre')

RELEASES.

General definition.

A deed of release is an instrument whereby a man doth give or discharge the right, or the action, which he may have or claim against another, Shep. Touch. 320. Releases are of two kinds; namely, a release of lands, tenements, and hereditaments, which, with a lease, is now the most usual mode of conveyance; and a release of actions, rights, &c. which are simply discharges.

Releases, or Conveyances.

Lease and release.

§ 1. A release, or conveyance of lands, now commonly called a Lease and Release, is a conveyance of a man's right in lands or tenements to another who has the possession, or some estate therein, 2 Comm. 324. 5 Bac. Abr. 680. At common law, where one was already in possession by a lease for a year, or any other shorter or longer term, a release to him by the lessor or heir would enure, by way of enlarging his estate, to give him the fee. But where any particular estate is created in this manner, for the purpose of conveying the fee, an actual entry is necessary, in order to vest in the tenant the possession on which the release is to operate. Where a bargain and sale, under the Statute of Uses, is made for the same purpose, it supersedes the necessity of actual entry; and as bargains and sales for a year do not require to be enrolled, (see *Bargains and Sales*) they are most usually adopted. But where the bargainee cannot stand seised to a use, as in the case of corporations, a lease for a year with actual entry is still necessary, Co. Litt. 271, *b*. Butl. n. 2. A bargain and sale is not necessary where the party is already in possession, as a lessee at will or a mortgagee, Lit. 459, 567, 578. So, likewise, a joint tenant, or coparcener, is capable of taking a release of the other's right without any bargain and sale, because each is seised of his companion's share, as well as his own Lit. a. 304. Co. Lit. 273; but in conveying an estate from one tenant

in common to another, a bargain and sale is necessary, because the seisin of these tenants is distinct, *ib.* So a release will not operate on the possession of an underlessee, or a tenant at sufferance by elegit or statute merchant, Co. Litt. 270-3. Shep. Touch. 324. In a conveyance of lands by release, in Jamaica and the West Indies, a lease is not required; and since, by the Irish Statute, 9 G. II. c. 5, the recital of a lease for a year, in a conveyance of lands, is made to be sufficient evidence of its existence, no lease is ever actually prepared, *Daly v. Kelly*, 4 Dow. 435.

2. A bargain and sale and a release, although distinct instruments, make together but one assurance, *Barker v. Keate*, 2 Mod. 252; all persons, therefore, who are necessary parties to the release, must also, for the most part, be made parties to the bargain and sale; but a lease to a man will support a release to him, and a third person as his trustee, *Doe v. Cooper*, Holt, N. P. 461. As the releasee must have a vested interest capable of enlargement at the execution of the release, the lease is usually made to commence the day before the release. The parcels also must be carefully described in the lease, so as to correspond with the release, as nothing will pass by the release which is not included in the lease, 2 Prest. Conv. 446. To the parcels should be added the general words, but the words 'the reversion, &c.' are not necessary; and the words 'All the estate, &c.' are improper in an instrument creating only a particular estate. A reference in the lease to the release, though not necessary for the validity of the deed, is convenient, as it may serve to furnish evidence of its having existed in case it should be lost, *Snell v. Sillcock*, 5 Ves. 469.

How made.

3. The reference in the release to the bargain and sale for a year, is usually made immediately before the description of the parcels; as 'unto the sd purchaser (in his actual possession now being by virtue of a bargain and sale, &c. see *Precedent*) and his hrs *All*, &c.' or unto the sd purchaser and his hrs (now being in the possession of the sd purchaser by virtue, &c.' In *Horseman's Precedents* it is made immediately after the general description by the words 'All which sd messes lds tents and heredit are now in the actual possession of or orwise legally vested in the sd purchaser by virtue of, &c. a bargain and sale to him thof made, &c.' In 2 *Bridgeman's Conv.* 110, there is a precedent having a recital of a bargain and sale, and a reference to the recital in the witnessing part, by the words 'in his actual possession now being by virtue of the sd hereinbefore in pt recited bargain and sale.'

Reference to the lease how made.

4. Whatever may be conveyed to uses may be conveyed by lease and release, therefore an incorporeal hereditament *in esse* which savours of the realty may be conveyed by it, *Taylor v. Vale*, Cro. Eliz. 166. Remainders and reversions are likewise now conveyed by it; but as a vested estate is necessary for the perfection of this mode of conveyance, a contingent remainder cannot be the subject of it, *Fearne's Cont. Rem.* 416, 7th ed, nor an executory interest, 2 Prest. Conv. 269.

What may be conveyed by lease and release.

5. A conveyance by lease and release may be adopted by a corporation aggregate, although not by a corporation sole, because the latter cannot take in succession chattels real or personal, *Hary*, Co. Litt. 9, n. 1.

6. Where a release operates as a conveyance on a sale, it is liable by the 55 G. III. c. 184, to the *ad valorem* duty; but a release or renunciation of lands, or other property, real or personal, is charged with a common deed stamp only, and the further progressive duty of 1*l.* 5*s.* for every entire quantity of 1080 words above the first 1080.

Stamp.

RELEASES, OR CONVEYANCES.

Where property is conveyed by lease and release, the release shall be deemed the principal deed with respect to the *ad valorem* stamp, and the bargain and sale be charged only with a common deed stamp; but the same shall not be enrolled or made available, unless also stamped for testifying the payment of the *ad valorem* duty.

Bargain and Sale or Lease for a Year whereon to ground a Release.

This Indre made the day of 18 Betu (vendor) of, &c. of the one pt and (purchaser) of, &c. of the other part (a) Witnesseth That in conson of the sum of 5s. by the sd (P) to the sd (V) in hand paid at or before the sealing and delivery of these prests the rect whereof is hby ackngd He the sd (V) Hath (b) bargained and sold and by these prests doth bargain and sell unto the sd (P) his exs ads and ass All, (c) &c. (parcels) Togr with all and singr houses, &c. (see general words in the release) And the revn, (d) &c. with the apts unto the sd (P) his exs ads and ass from the day next before the day of the date of these prests for the term of one whole yr from thence next ensuing (e) Yielding (f) therefore unto the sd (V) his hrs and ass the rent of one peppercorn if demanded To the intent (g) and purpe that by virtue of these prests and of the Statute for transferring uses into posson the sd (P) may be in actual posson of the same preases and may thby be enabled to accept (h) and take a grant and rele of the freehd revn and inhance of the same heredts and preases and evy pt and pcl thof (i) to the use of the sd (P) his

(a) As to the necessity of naming the trustee (if there be one), as well as the purchaser, see Pref. § 2.

(b) If it be an actual lease, say, '*Hath bargd sold and demised*'

(c) If it be a remainder or reversion, say, '*All that the remainder,*' &c. see *Release*; also as to the parcels, see further, § 2.

(d) As to these words, see § 2.

(e) If it be an estate for life, say, '*If the sd (V) should so long live*'

(f) These words are not necessary, except in an actual lease.

(g) If the conveyance be of a remainder or reversion, say, '*To the intent, &c. that by virtue of, &c. the remainder in fee or reversion, &c. expectant upon the este for life of the sd (tenant for life) may be actually vested in him the sd (P) so that he may be enabled, &c. as above.*'

(h) If the conveyance be of an estate for life, say, '*to accept and take a grant and rele of the revn of the freehold to the use of the sd (P) and his hrs during the life of the sd (tenant for life).*'

(i) If the release be intended to be made to uses, say, '*to him the sd (P) and his hrs (or to him the sd purchaser and trustee and their hrs) to such uses upon such trusts and for such intents and purps as shall be thereof decid in and by an indre intended,*' &c. as above.

If the release be by way of mortgage, say, '*to him the sd (mort-*

hrs and ass according to the form and effect of a certain indre intended to bear date the day next after the day of the date of these prests and made betn the sd (V) of the first pt and the sd (P) of the or. pt (a) In Witness, &c.

*Release being grounded upon a Lease for a Year.
(General Precedent.)*

Obs. For variations, where it is necessary to bar dower, see *Dower*, vol. ii. p. 72, *et seq.*

This Indre made the day of in the year of our Lord 18 and in the yr of the reign of our Sovereign Lord by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith betn (vendedor) (b) of, &c. of the one pt and (purchaser) of, &c. of the or. pt Whereas (c) the sd (V) is seised in his demesne as of fee (d) of and in the

gagee) and his hrs according to the true intent and meaning of a certain indre of rele by way of mtge intended to bear date the day next after the date of these prests and to be made betn the sd (mortgagor) of the one pt and the sd (mortgagee) of the or. pt.

(a) If there be a trustee, say, 'The sd (V) of the first pt the sd (P) of the second pt and (trustee) of, &c. of the third pt.'

(b) If it be a man and his wife, say, 'Betn (V) of, &c. and S his wife (late S P spinster) of the one pt and (P) of, &c. of the or. pt.'

(c) If it be a moiety, &c. say, 'Whas, &c. is seised, &c. of one full equal and undivided moiety or half part (or third part, &c. as the case may be) of and in the messes, &c. And the sd (P) hath contracted and agrd with him for the purchase thereof at the price or sum of £—'

Seisin of a moiety.

If it be of a remainder or reversion, say, 'Whas (testator) late of, &c. decd by his last will and testamt in writing bearing date, &c. duly signed published and attested as is by law required for the passing of real estes of inherance by devise gave and devised the sevl messes, &c. unto C D therein described for and during the term of his natural life wtht impeachment of waste and from and immly after the dece of the sd C D the sd testator gave and devised all and singr the same messes, &c. unto the sd (vendedor) his hrs and ass for ever And whas (recite death of testator wtht revoking his sd will leaving C D him surviving, also probate of will, &c.) 'And whas the sd (P) hath contracted with the sd (V) for the absolute purchase of the sd remainder in fee simple of the sd messes, &c. free from incumbrs to take effect in posson upon the determination of the este for life of the sd C D at and for the price, &c.

Of a remainder, &c.

If it be of an estate in fee tail, say, 'Whas under and by virtue of certain indres of lease and rele bearing date resply on or about the and the days of , &c. and made or expsd to be made betn, &c. the sd (P) is seised to him and his hrs in fee tail in posson of and in the messes, &c. 'And whas' (recite contract for purchase.)

Of an estate tail.

If it be of an este for life, 'Whas' (recite will devising the messes unto the sd vendor and his assignees during his life or the

Of an estate for life,

Contract
for sale.

messes or tents lds and hereds [or the sevl pieces or pcls of grd and the messes or tents thereon erected] which are hereinafter more fully described and intended to be hby granted and reld *And whas* the sd (*purchaser*) hath contracted and agreed with the sd (*vend*) for the absolute purchase of the fee simple and inheritance of and in the sd pieces or pcls of land messes or tents and preses at or for the price or sum of £ — free from all incumbs (except the sevl leases made thereof by the sd (*vend*) which are hnaft mentd and excepted). [or 'Whas the sd (*vend*) being seized and possessed of or orwise entitled to the sd pieces, &c. hnaft described hath contracted with the sd (*purchaser*) for the sale to him thereof at or for the price or sum of £ — and the same are now intended to be granted and reld to the sd (*P*) in the manner hnaft expssd] *Now this Indre Witnesseth* That in pursuance of the sd agrt and for carrying the same into effect for and in conson (*a*) of the sum of £ — of lful money of Great Britain to the sd (*vend*) in hand well and truly pd by the sd (*purchaser*) at or immly before the sealing and delivery of these prests

Testatum.

life of A B, &c. which sd will was duly proved in, &c. *And whas* the sd (*P*) hath contracted, &c. with the sd (*V*) for the absolute purchase of all his este and int during the natural life of him the sd (*V*) or the life of A B of and in the sd messes, &c.

Sale by
auction.

If it be a sale by auction say, 'And whas the sd (*V*) caused the sd messes or tents lds and hereds to be put up to sale by auction at in the co. of on the day of now last at which sale the sd (*P*) became and was decld the highest bidder and purchaser of the sd messes, &c. at or for the price or sum of £ — and immly after such sale pd into the hands of Mr (*auctioneer*) the sum of £ — by way of deposit And the sd (*P*) is desirous of completing his contract and having the sd messes, &c. conveyed and assured to him in manner hnaft mentd.

(a) If it be a sale by auction, say, 'in conson of the sd sum of £ — so pd to the sd Mr (*A*) by way of deposit as afd for and on behalf of the sd (*V*) and also in conson of the sum of £ — of good and lful money, &c. to the sd (*V*) in hand, &c. pd by the sd (*P*) at, &c. the rect of which two several sums of £ — and £ — making togr the sum of £ — and that the same sums are in full for the absolute purchase, &c.' *as above*.

If the consideration be a transfer of stock, say, 'for and in conson of the capital stock or sum of £ — three per cent Consolidated Bank Annuities this day well and truly transferred into the name and for the absolute use and bent of the sd (*V*) by the sd (*P*) in the books kept by the Governor and Company of the Bank of Englnd for that purpe the transfer of which sd £ — three per cent Consolidated Bank Annuities and that the same is in full for the absolute purchase, &c.' *as above*.

If the premises are to be conveyed to a trustee, say, 'and also for and in conson of the further sum of 5s. of like lful money to the sd (*V*) in hand pd by the sd (*trustee*) the rect whereof is hby ackngd'

the paymt and rect (a) whereof and that the same is in full for the absolute purchase of the (b) inhance in fee simple in posson of the sd messes or tents lds and heredit [or 'pieces and parcels of land and heredit'] hnafter described and mentd and intended to be hby granted and reld the sd (V) doth hby admit and acknge and of and from the same and evy pt thof doth acquit (c) rele exonerate and for ever discharge the sd (P) his hrs exs ads and ass and every of them and also the sd messes, &c. by these prests (d) He the sd (V) *Hath* granted bargained sold aliened released and confirmed and by these prests *Doth* grant bargain sell alien rele and confirm unto the sd (P) (e) (in his actual possession now being by virtue of a bargain and sale to him thof made by the sd (V) in conson of 5s. by indenture bearing date the day next before the day of the date of these prests for one whole year commencing from the day next before the day of the date of the same indenture of bargain and sale and by force of the statute made for transferring uses into possession) (f) and to his hrs and ass *All* (g)

(a) Where the consideration is to be pd to two or more vendors, say, 'the rect whof and that the same is in full, &c. the sd (V) do and each of them doth [or 'the sd (V) and S his wife do and each of them doth'] 'hby acknge,' &c. and of and from the same, &c.

Where the consideration is for the purchase of a reversion or remainder, say, 'the rect whereof and that the same is in full for the absolute purchase of the reversion or remainder of him the sd (V) expectant upon and to take effect in posson immly after the dece of, &c.'

If it be for the purchase of a moiety or other part, say, 'the rect, &c. and that the same is in full for the absolute purchase of the undivided moiety or equal half part, &c. (the whole to be divided into two equal half parts' or 'into three parts' as the case may be.)

If it be for the purchase of a life estate, say, 'the rect, &c. and that the same is in full for the absolute purchase of the freehold and posson during the natural life of the sd (V) of and in the sd messes, &c. the sd (V) doth hby acknge, &c.'

(b) If there are two or more purchasers, say, 'doth acquit, &c. the sd (P) resply and their respive hrs exs ads and ass and evy of them and also the, &c.'

(c) Where it is a conveyance from a tenant in tail, say, 'and for docking barring and destroying all estes tail of and in the sd messes, &c. and all revns and remrs expectant or dependant thereupon and all condons and limitations thereupon and for conveying and assuring the same messes, &c. to the use of the sd (P) and his hrs in fee simple.' See *Fines and Recoveries*, vol. ii. p. 95.

(d) If the conveyance be from a man and his wife, say, 'They the sd (V) and S his wife *Have* and each of them *Hath* granted, &c.'

(e) As to the manner of referring to the bargain and sale, see Pref. § 3.

(f) If it be a life estate omit the words 'and his hrs.'

(g) If it be a reversion or remainder, say, '*All* that the revn or remr of him, &c. of and in all,' &c. If a moiety, 'All that the undivided moiety, &c. of him and of and in all,' &c. or, other portion '*All* that undivided part or share of him the sd (V) the whole into

RELEASES, OR CONVEYANCES.

General
words.

those, &c. (a) togr with all and singular houses outhouses edifices buildings barns stables yards gardens orchards ways paths passages waters watercourses timber and or. trees woods underwoods and the ground and soil thereof feedings commons commons of pasture and turbury and or. commonable rights hedges ditches fences mounds bounds liberties privileges profits commodities advantages and apts whater to the sd messes hby released or to any of them or any part thof now or at any time heretofore belonging or appertaining or deemed taken used occupied possessed and enjoyed as part pcl or member thof or of any of them resply or howsr orwise the same messes now are or heretofore were tenanted called known or described situate lying being abutted bounded divided or distinguished And the (b) revn and revns remr and remrs yrlly and or. rents issues and prfts of all and singr the sd messes, &c (or pieces and pcls, &c.) hby granted and released or orwise assured or intended so to be and evy pt and pcl of the same with their and evy of their rights members and apts And all the este (c) right title interest use trust inhance [term and terms for yrs and life or lives] property posson possibility benefit equity of redemption ['tenant right or right of renewal'] claim and demand whater at law or in equity or orwise of him the sd (V) of into and out of the sd same messes, &c. and evy pt and pcl thof (except and always reserved out of these prests all that messe, &c. in D afd called or known, &c. and also one piece of pasture ground, &c. *as the case may be*) [(d) And all deeds muniments writings and evidences whater relating hereto which now are in the custody or lful power of the sd (V) or any or. psns from whom they can or may procure the same witht any action or suit at law or in equity and true and attested copies of such or. deeds

parts to be considered as divided of and in, &c.' If a life estate, *'All those, &c. for and during the natural life of the sd (V) (or cestui que vie,' as the case may be).*

(a) If the conveyance be of a house only, say, 'Togr with all outhouses buildings cellars sollers vaults areas courts courtyards pumps drains cisterns privies sewers wydraughts backsides gardens ways paths passages ancient and or. lights easements prfts commodities advantages and emoluments whater to the sd messe or tent and hereds hby released or orwise assured or intended so to be or any of them resply belonging or in any wise appertaining or accepted reputed deemed taken known held used occupied or enjoyed as pt pcl or member of the same or any of them resply.

(b) If the conveyance be of a manor, for the general words see *Index*. If a life estate, omit the words 'revn and revns remr and remrs.'

(c) As to the use of these words, see *Purchase Deeds*, Pref. § 5.

(d) As to this clause, see *Purchase Deeds*, Pref. § 5.

evidences and writings which relate to or concern the same jily with any or. lds or hereds the first set of copies to be made and delivered at the costs and chas of the sd (*V*) but all future copies to be made written and taken at the request costs and chas of the sd (*P*) his hrs and ass *To Have and to Hold* the sd (*a*) messes or tents lds and hereds and all and singr or. the preses hby granted and released or orwise assured or intended so to be unto and to the use of the sd (*P*) his hrs and ass (*b*) for ever And (*c*) the sd (*V*) doth hby for himself his hrs exs and ads covt promise and agree with and to the sd (*P*) his hrs exs ads and ass in manner following that is to say That for and notwithstanding any act deed matter or thing whater by the sd (*V*) made done committed exted or knowingly or willingly suffered to the contrary he the sd (*V*) now is lfully rightfully and absolutely seised of or well entitled to (*d*) the messes or tents lds hereds and or. the preses hby

Habendum.

Covenants.

That vendor is absolutely seized.

(*a*) If a reversion, say, 'the sd messes, &c. unto and to the use of the sd (*P*) and his hrs to take effect in posson immly upon or after the dece (or sooner determination of the este for life of the sd (*tenant for life* or *cestui que vie*.)' If a moiety, say, 'the sd undivided moiety or half part or share of him the sd (*V*), &c. of and in the sd messes,' &c.

(*b*) Or, if a life estate, for and during the natural life of the sd (*V*) or (other *cestui que vie*, as the case may be) If there be two purchasers, say, 'unto the sd (*P*) and their hrs to the use and behoof of them the sd (*P*) as jt tenants and of their hrs and ass for ever,' or 'of them the sd (*P*) and their several and respive hrs and ass for ever as tents in common,' or, 'unto the sd (*P*) and their hrs as to and in respect of one moiety or full half part the whole into equal moieties or half parts to be divided or considered as divided of and in the sd messes, &c. to the use and behoof of the (*one purchaser*) his hrs and ass for ever and as to, &c. the or. moiety to the use and behoof of the sd (*other purchaser*) &c. his,' &c. If it be trustees purchasing under a marriage settlement, say, 'Unto and to the use of the sd (*T*) their hrs and ass for ever But upon such and the same trusts and to and for such and the same ends intents and purps and with under and subject to such and the same powers provos condons limitations declons and agrts respily as are in and by the sd hnbeft in pt recited indre of,' &c. (or 'the sd hnbeft in pt recited last will of, &c. decd') decd and expsd concerning the same sum of £ — 3 per cent Cons. Bk Annties and the lds so thby directed to be purchased therewith or such and so many of them as now are or hrafr may be capable of taking effect and to and for no or. uses intents or purps whater' Where it is a conveyance from trustees under a power of sale, say, 'Unto and to the use of the sd (*P*) his, &c. freed exonerated and fully and absolutely discharged of and from all and evy the uses estes trusts declons and agrts in or by the sd hnbefore in pt recited, &c.

(*c*) As to covenants for title by several vendors, also for variations where it is by Appointment and Release, see *Purchase Deeds and Index*.

(*d*) If a moiety, say, 'the sd undivided moiety or half part or share of and in the, &c.'

granted and released or intended so to be and every pt thof for an absolute and (a) indefeasible estate of inheritance in fee simple [witht any condon use trust power of revocation or or. restraint cause matter or thing whatsr to alter defeat incumber revoke or make void the same] And that for and notwithstanding any such act deed matter or thing as afd he the sd (V) now hath in himself good right full power and absolute authty to grant rele and convey (b) the sd messes or tents and or. heredts hby reld or orwise assured or intended so to be with their apts (c) unto and to the use of the sd (P) his hrs and ass in manner afd and according to the true intent of these prests And that it shall be lful for the sd (P) his hrs and ass from time to time and at all times hrafr (d) peaceably and quietly to enter upon have hold occupy possess and enjoy the same messes and preses with their apts and to rece and take the rents issues and prfts thereof and of evy pt thereof to and for his and their own use and bent witht any let suit trouble denial eviction interruption claim and demand whatsr of from or by him the sd (V) or any psn or psns lfully or equitably claiming or to claim by from under or in trust for him or them or any of them (e) And that (f) free and clear and freely clearly and absolutely acquitted exonerated and for ever discharged or orwise by the sd (V) his hrs exs and ads well and sufficiently saved defended and kept harmless and indemnified of from and agst all former and or. gifts grants bargains sales jointures dowers uses trusts entails wills statutes recognizances judgmts exons extents rents annities forfeitures re-entries

Hath good right to convey.

Quiet enjoyment.

Free from incumbrances.

(a) If a reversion or remainder, say, 'an indefeasible este of inheritance in fee-simple in remr or revn expectant upon and to take effect from and immly after the dece or or. sooner determination of the este for life of the sd (*tenant for life* or other *cestuique vie*;)'

'if a life estate, say, 'an indefeasible este of freehold in possession for and during the term of the natural life of the sd (*tenant for life*.)'

(b) If a moiety, say, 'the sd moiety, &c. of and in the sd messes, &c.;' if an estate for life, say, 'and the freehold thof for and during the term of the natl life of the sd (*tenant for life*.)'

(c) If an estate for life, 'for and during the term of the natl life of the sd (*tenant for life*;)'

if a remainder or revn, 'immly upon the dece or or. sooner determination of the estate for life of the sd (*T for life* or other, &c.) peaceably, &c.'

(d) If a moiety, say, 'the sd undivided moiety, &c. of and in the same, &c.'

(e) If a life este, say, 'or the sd (*testator*.)' see *Purchase Deeds*, Pref. § 8.

(f) Or in a shorter form, 'And that free and clear and freely and clearly and absolutely acquitted reld and discharged or orwise by the sd (V) his hrs exs or ads well and sufficiently saved defended kept harmless and indemnified of from and agst all former

and all or. estes titles charges troubles and incumbrances whater had made exted occasioned or suffered by the sd (V) or his hrs or by any or. pns lfully or equitably claiming or to claim by from under or in trust for him them or any of them (a) And furr that he the sd (V) and his hrs and all and evy or. psn or pns whosr having or claiming or who shall or may hrafr have or claim any este right title or int whater either at law or in equity into or out of the sd (b) messes or tents lds heredts and preses hby granted and released or orwise assured or intended so to be and evy pt thof by from under or in trust for him them or any of them shall and will from time to time and at all times hrafr (c) upon every rease request and at the costs and chas of the sd (P) his hrs or ass make do exte or cause to be made done or exted all such furr and or. lful acts deeds things devices conveyances and assurances in the law whater for the better more perfectly and absolutely conveying and assuring (d) the sd messes or tents lds or heredts hby reld or orwise assured or intended so to be and evy pt thereof with their apts unto the sd (P) his hrs and ass in manner afd as by the sd (P) his hrs or ass or his or their counsel in the law shall be reasonably devised advised or required so as no such furr assurances contain or imply any furr or or. covt or warranty than agst the psn or pns who shall be required to make or exte the same and his her or their hrs exs or ads acts and deeds only and so as the pties who shall be required to make or exte such assurances shall not be compellable for the making or doing thof to go or travel from his her or their usual place of abode (e) In Witness whereof the

Further assurance.

and or. gifts grants bargains sales mortgages titles troubles liens chas and incumbs had made done or committed by the sd (V) or his hrs or any or. psn or pns claiming or to claim by from through under or in trust for him or them.

(a) If a life estate, say, 'or the sd (testator,)' see *Purchase Deeds*, § 8.

(b) If a moiety, 'the sd undivided moiety, &c. of and in the sd messes, &c.'

(c) If an estate for life, 'for and during the term of the natural life of the sd (T for, &c.)'

(d) If a remainder, &c. 'the same heredts and preses now in remr or revn as afd; if a moiety, 'the sd undivided moiety, &c. of and in the sd messes, &c.'

(e) If the vendor retain the title deeds, then, omitting the grant of the title deeds, say, 'And moreover that he the sd (V) his hrs and ass unless prevented by fire or or. inevitable accident shall and will from time to time at the request costs and chas of the sd (P) his hrs or ass produce and shew forth unto the sd (P) his hrs or ass or their atty solicitor agent or counsel or at any trial or hearing in any action or suit at law or in equity or or. judicature or orwise as the occasion shall require all and evy or any of the sd

Actions, &c. sd (V) hath hereunto set his hand and seal the day and year first above-written signed sealed and delivered by the sd (V) in the presence of (*witnesses*)

Releases, or Discharges.

§ 1. Releases, as simple discharges, consist of releases of actions which may be discharged to him that is chargeable, releases of conditions annexed to estates, releases of covenants, services, &c.; so likewise rent-charges, dower, commons, and other rights and profits arising from or annexed to land, may be discharged, extinguished, and determined by release to the tenant of the land; also possibilities of land, although they be not grantable over to a stranger at common law, yet they may be released to him that hath the present estate of the land; Sheph. Touch. 322. All debts, legacies, and other dues may be discharged before or after they become due; *Ib.* 323. As to releases of actions, annuities, bonds, covenants, &c. see further in their respective places.

2. A release is most commonly and properly made by the words 'remise and release and for ever quit-claim,' (or, 'remise, release, exonerate, and discharge,') although it may be made by the words, 'give, grant, and renounce;' Plowd. 140, Litt. sect. 445; Sheph. Touchst. 320.

Stamp

3. As to the stamp, see *Releases, or Conveyances*, Pref. § 6. If there are mutual releases, there must be several deeds and several stamps; but a release to joint acceptors of a bill requires but one stamp, although it operates as a release to each; *R. v. Bayley*, 1 Car. and P. 435.

A General Release from One (a) to One. (General Form.)

Operation
of a general
release.

Obs. 1. A release of all demands, discharges all sorts of actions, rights, titles, conditions, executions, rents of all kinds, recognizances, statutes, commons, and the like then existing; Litt. 508; Co. Litt. 291. A general release of all actions, &c. to the day of the date of the release does not include the day on which the release is dated; *Dixon v. Terry*, 4 Mod. 182.

Construc-
tion of re-
leases.

2. It has been established as a rule, in the construction of releases, that where there are general words in a release, they shall be taken most strongly against the releasor; but where there is a particular recital in a deed, and then general words follow, the general words shall be qualified by the special; *Payler v. Homersham*, 4 M. and S. 423.

3. A covenant not to sue on a bond till such a time, is a discharge, but a covenant not to sue at all is a release; *Lacy v. Ky-*

deeds instrmts and writings hereunder-written for the manifestation defence and support of the este title and possession of the sd (P) his hrs and ass to the sd messes, &c. And at the like request costs and chas to make and deliver or cause to be made and delivered true and attested copies or abstracts of the same deeds instrmts and writings resply or any of them And to permit and suffer such copies and abstracts to be examined and compared with the original deeds by the sd (P) his hrs or ass or such psns as he or they shall for that purpe direct and appt.'

(a) Where there are several releasors or releasees, see the *subsequent precedents*.

naston, 12 Mod. 415; S. C. 2 Salk. 575. Where an instrument amounts to a covenant only, and not to a release, it cannot be pleaded in bar, 12 Mod. 539.

Actions.

Know all Men by these presents That I (*releasor*) of, &c. for and in conson of the sum of £ — of lful, &c. to me in hand well and truly paid by (*releasee*) of, &c. have remised released and for ever discharged and by these prests do for me my hrs exs and ads remise release and for ever discharge B C his hrs exs and ads of and from all and all manner of actions causes of action suits debts dues sum and sums of money acct's reckonings bonds bills specialties covenants contracts controversies agreements promises variances dams judgments extents exons claims and demands whatsr in law and equity which against the sd (*releasee*) I ever had or now have or which I my hrs exs or ads hrastr can shall or may have for upon or by reason of any matter cause or thing whatsr from the beginning of the world to the day of the date of these prests *In Witness, &c.*

Release of an Annuity charged upon a Freehold Estate.

Obs. 1. A release of an annuity or rent-charge operates by way of extinguishment, and though made to one who is tenant for life, will nevertheless be effectual; Co. Litt. 279. *Operation.*

2. As a rent-charge issues equally out of every part of the land charged with the payment of it, a release of any part will by implication of law exonerate the whole; Co. Litt. 148; 2 Roll. Ab. 414, unless it be otherwise agreed between the parties. Whenever, therefore, a part only of the lands so charged are released from the rent, for the purpose of being sold, care should be taken to continue the charge upon the remainder by an express stipulation to that effect; such a stipulation will operate as a new grant; Co. Litt. 147.

To all to whom, &c. (administrators) administrators of all and singr the goods rights and credits of (*annuitant*) late of, &c. decd send greeting *Whas* (recite will devising estates to trustees to pay annuity to (*annuitant*) for life, also death of annuitant intestate, and that letters of administration were granted to (*administrators*) *And whas* the sum of £ — was due for arrears of the sd annuity at the time of the dece of the sd (*annuitant*) *Now therefore these presents Witness* That for and in conson of the sum of £ — of, &c. to the sd (*A*) in, &c. pd by the sd (*releasee*) at, &c. in full satisfaction and discharge of all sums of money due and owing to the sd (*A*) as ads of the sd (*annuitant*) in respect of the sd annty or yrly rent-charge of £ — or the arrears thof the paymt and rect of which they the sd (*A*) do and each of them doth acknge to be in full satisfaction of the sd annty and all arrears thof, &c. *They* the sd (*A*) *Have*

Recitals.

Bond. and each of them *Hath* remised reld acquitted exonerated and discharged and by these prests *Do* and each of them *Doth* fully and absolutely remise, &c. all and evy the sd manors messes, &c. which were given or devised in and by the sd in pt recited will of the sd testator decd and thby charged and made chargeable with the sd annnty or yrly sum of £ — to the sd (*annuitant*) for his life And also the sd (*releasee*) his hrs exs and ads of and from the sd annuity or yrly sum of £ — and all arrears due or paye in respect thereof (a) and also of and from all claims and demands whatar which they the sd (A) or either of them their or either of their hrs exs or ads at any time hraftr can or may have claim challenge or demand of in to or out of the sd hereds and preses or any pt or pcl thof under or by virtue of the sd in pt recited will or agst the sd (*releasee*) his hrs exs or ads or any of them in respect of the sd annnty or rent-charge of £ — or the arrears thereof or any pt thereof (b) *In Witness, &c.*

Release of a Bond to several Obligors, it being lost or mislaid.

Obs. 1. Where there are several obligees, a release by one of them will be a release of the entire bond; *Bayley v. Lloyd*, 7 Mod. 250; *Jacomb v. Halcombe*, 2 Ves. 265. So a release to one of two joint and several obligors will be a discharge to the other; Co. Litt. 232, *Clayton v. Kinaston*, 1 Ld Raym. 420.

2. A promise by words may, before breach, be discharged by words; *Knight v. Chaplin*, 2 Sid. 78; but the release of a bond must be by deed; *Sellers v. Bickford*, 2 Taunt. 31, S. C. 1 Moore, 460; and a testamentary disposition will not operate as a release of a bond; *Parsons v. Coward*, Cas. Temp. Hard. 357; Toller L. of Ex. 308.

To all, &c. I, A B of, &c. Whas (releasees) by their bond or obligation bearing date, &c. became bound, &c. And whas the sum of £ — mentioned in the sd bond with all interest for the same is pd and satisfied unto me the sd A B in full discharge for the sd bond or obli-

Recitals.

(a) Where there are powers of distress and entry, say, 'And of and from all powers and remedies whatar for compelling or enforcing the payment thof.'

(b) Where only part of the lands are released from the annuity, say, 'Provided always and it is hby agrd and declared that the sd rele hby made of the sd lds shall not release discharge or exonerate or. the lds, &c. so charged and chargeable with the payment of the sd annnty or yrly, &c. of £ — as lnbefermentd but that all and every such residue of the last-mentd lds shall continue to be charged with and subject to the payment of the same annnty and to all and evy the powers of distress and entry to all intents and purps whatar as if these presents had not been made.' See Obs. 2.

gation *And whas* the sd bond or obligation is lost or at present mislaid so that it cannot be found and delivered up to the sd (*releasees*) *Now know ye* That I the sd A B for the conson afd have remised released and quit-claimed and by, &c. *do*, &c. unto the sd (*releasees*) and every of them their and every of their hrs exs and ads as well the sd recited bond or obligation as all such sums of money as therein-mentd to be due and paye unto me the sd A B my exs, &c. And also all actions, &c. (see *Gen. Prec.*) which I the sd A B ever had, &c. or that I my exs, &c. may have, &c. agst the sd (*releasees*) or any of them their or any of their exs, &c. for or upon, &c. *In Witness*, &c.

Covenant.

Testatum.

Release of a Covenant.

Oba. By a release of all covenants from the covenantee, the covenant is discharged, so as the release be by deed, for a covenant cannot be discharged by mere words, only by an act of equal solemnity; Shep. Touchat. Prest. Ed. 181.

Know all Men That they the sd A B and C D *Have* and each of them *Hath* remised reld and for ever quitted claim and by, &c. *Do* and each of them *Doth* remise, &c. the sd (*releasee*) his hrs, &c. of from and agst the sd covt and agrt on the pt of the sd (*releasee*) his hrs, &c. in the within-written indre contd And all and all manner of actions, &c. (see *Gen. Prec.*) *In Witness*, &c.

Release from Creditors to a Debtor.

To all, &c. We who have hereunto set our hands and seals crs of A B late of, &c. send greeting *Whas* the sd A B is indebted to us his sd crs in sevl sums of money which he is not able fully to satisfy and discharge we therefore have agrd and do hby agree to receive the sum of £ — in full payment and satisfaction of all the debts owing to us resply at the date hereof by and from the sd A B which is pd and delivered by or for the sd A B to C D and E F or one of them To the intent that the same may be shared and divided amongst his sd crs in proportion and according to the debts severally due and owing (a) *Now therefore know ye* That for the

Recitals
that debtor
is indebted.

Testatum.

(a) Or the sum of shillings in the pound upon the amount of our respie debts being the several sums set opposite to our respie names and to exte such rele as is hrafr mentioned *And whas* we the sd sevl persons whose names are hereunder-written and seals hereto affixed have resply recd the sevl sums set opposite to our respie signatures hereto being shillings in the pound

Debts. conson afd each of us the sd crs of A B who have set our hands and seals for him and herself his and her hrs exs and copartners *Doth* by these prests remise release and for ever discharge the sd A B his hrs exs and ads [their lds tents goods and chattels] of and from our sd sevl debts and all and all manner of actions, &c. which agst the sd A B each and every of us the sd creditors now hath or which each and every of our heirs exs or ads respily hrafrt may can or ought to have claim or demand for or by reason of the sd sevl and respive debts to us sevlly due and owing or for or by reason of any or. matter, &c. see *Gen. Form (a)* In *Witness*, &c.

Release of Dower.

Obs. A release of dower must be made to the tenant of the freehold, otherwise it will be void, Anon. Cro. Jac. 151.

This Indre made, &c. Betn (*releasor*) of, &c. widow and relict of A B late of, &c. decd of the one pt and (*releasee*) of, &c. of the or. pt *Whas* (recite the descent, conveyance, or will, by which the releasee is entitled to the land in possession) *And whas* the sd (*releasor*) hath or claimeth to have a right or title of or to dower in and out of the sd manor messes, &c. but in conson of the sum of £ — to be therefore pd to her by the sd (*releasee*) she hath consented and agrd to rele all such her right and title to dower in manner hnafrt mentd *Now this Indre Witnesseth* That for and in conson of the sum of £ — to the sd (*releasor*) in, &c. by the sd (*releasee*) at, &c. pd the rect whereof and that the same is in full satisfaction of and for all and all manner of dower free-bench and thirds and all right and title to dower, &c. which she the sd (*releasor*) hath or may or ought to have or claim of in to or out of the sd manor messes or tents, &c. the sd (*releasor*) doth hby admit and acknge and of and from the same and evy pt thereof doth acquit release and for ever by these prests discharge the sd (*releasee*) his hrs exs ads and ass She the sd (*releasor*) *Hath re-*

upon the amount of our respive debts *Now Know*, &c. that for and in consideration of the sevl sums, &c. we the several persons whose, &c. *do* and each and evy of us *doth* by, &c. fully and absolutely remise, &c.

(a) Add, if necessary, 'And we the sd sevl parties hereto do hereby for ourselves severally and not jointly and for our respive hrs, &c. covt and agree to and with the sd A B his hrs, &c. that we and our respive hrs, &c. shall and will at any time hrafrt at the request and at the costs and chas in all things of the sd A B his, &c. make do and exte any such furr and or. lful and rease acts and deeds, &c. for the furr, &c. releasing exonerating and discharging the sd A B.'

mised released and quit-claimed and by these prests *To Guar-*
diens.
Doth remise, &c. unto the sd (*releasee*) his hrs and ass
All dower freebench and thirds and all right title claim
 or demand of or to dower freebench and thirds whether
 at common law or by custom which she the sd (*releasor*)
 hath or may claim of in or to all or any pt of the sd
 manor, &c. And all and all manner of actions or suits
 touching or concerning the same And the sd (*releasor*)
 for herself her hrs exs and ads doth hby covt, &c. with
 and to the sd (*releasee*) his hrs and ass that she the sd
 (*releasor*) or any or. psn or psns whatsr for her or in her
 name any manner of action or suit or any manner of
 right or title shall not nor will at any time bring pro-
 secute challenge or demand against the sd (*releasee*) his
 hrs or ass or his or their lands or tents for or by reason
 of any dower or thirds due to her the sd (*releasor*) but
 that they and every of them shall for ever hereafter by
 these presents be excluded and bound of and from all
 actions claims and demands of dower in and to the same
In Witness, &c.

Release to a Guardian.

Know all, &c. that A B of, &c. son and heir of
 decd hath remised released and for ever quit-claimed and
 by, &c. unto C D of, &c. his guardian all and all manner of
 actions suits reckonings accts debts dues and demands
 whatsoever which he the sd A B, &c. (see *General Form*)
 agst the sd C D his exs, &c. for touching and concern-
 ing the management and disposition of any of the lds
 tents and hereds of the sd A B situate, &c. or any pt
 thof or for or by reason of any monies rents or profits
 by him received out of the same or any paymts made
 thereout during the minority of the sd A B or by reason
 of any matter, &c. (see *Gen. Form*) *In Witness, &c.*

Release of a Legacy.

Obs. A general release by several legatees to their executor,
 requires but one stamp, that is to say, a common deed stamp; see
 further, *Releases, or Conveyances*, Pref. § 6.

To all, &c. Whas, &c. (recite will, &c.) *Now know*
ye that the sd (*legatees*) *Do* and each of them *Doth* by
 these prests resply acknge declare and testify that on the
 day of the date hereof they have severally had and recd
 of and from the sd (*executors*) the sum of £ — each in
 full payment satisfaction and discharge of the sd legacy
 or sum of £ — so given and bequeathed to the sd
 (*legatees*) distributively as afd and of and from the sd

Right. legacy or sum of £ — and every pt thof and all claims and demands touching the same *Do* and each of them *Doth* sevely acquit release and discharge the sd (*executors*) their exs, &c. and evy of them and the este and effects of the sd (*testator*) for ever by these prests *In Witness, &c.*

Release of a Power reserved in a Deed.

Obs. A release of a power is necessary only when it is coupled with an interest, a bare naked power not being the subject of a release, Co. Litt. 265, a. A power relating to land may be destroyed by a release to any person having an estate of freehold in possession or reversion, 1 Co. 110, b.

Recitals. To all, &c. I, A B of, &c. send greeting *Whas* (recite the deed creating the power) *And whas* I the sd A B have with the concurrence of C B my now eldest son by sale of the sd manor of P and other lands, &c. raised the sum of £ — and therewith preferred my daughter in marre which sd sum of £ — so raised as afd I did agree should be in full satisfaction extinguishment and discharge of the sd power so that the sd manor, &c. hnbefe mentioned subject to the sd power ought to be freed released and exonerated therefrom *Now know ye* that I the sd A B pursuant to the sd agreement and for other divers good causes me thereunto moving have reld extinguished and discharged and by these prests do fully clearly and absolutely release extinguish and discharge the sd recited power for raising the sd sum of £ — as afd and all the lds, &c. therein comprised or subject thereto so that I the sd A B shall not nor will at any time or times hrafrt raise the same or any pt thof or hrafrt charge the sd manor, &c. with the paymt thereof or any pt thereof *In Witness, &c.*

Testatum.

A Release of Right to Land.

Obs. 1. A release of right to land operates to discharge or extinguish any right or title to lands. It need not be by indenture, but it must be by deed, Co. Litt. 264. Roll. Rep. 43. Leon. 283. In every such release, it is necessary that the person making it should have some right to release; as when one deprives me of land, and I release to him all my right, Sheph. Touchst. 333. Also he to whom the release is made should be tenant of the freehold, either in deed or in law, Litt. s. 447. Co. Litt. 265, b. A release, therefore, to one who has only a term of years is void, Gilb. Ten. 54.

2. As to the stamp, see *Releases, or Conveyances*, Pref. § 6.

To all, &c. Whas (recite deed or will under which the releasor derives title) *Now these presents* witness That in conson of the preses and of the natural love and

affection which the sd A B hath and beareth to the sd W B and in order to quiet and establish the seisin of the sd W B of and in the sd messes (except as hnaft mentd) and also in conson of 5s. to the sd A B by the sd C B pd at, &c. the rect, &c. He the sd A B of his own free will *Hath* remised reld and for ever quit-claimed and by these prests *Doth* remise rele and for ever quit-claim unto the sd W B and his hrs all the este right title int use trust claim and demand whatsr both at law and in equity of him the sd A B his hrs or ass so that neither the sd A B his hrs or ass or any or. pson or psons in trust for him or them or in his or their name or names or in the name right or stead of any of them shall or will can or may by any ways or means whatsr hraft have claim challenge or demand any right title or int of in to or out of the same manors, &c. or any of them or any pt thereof (except the piece or pcl of ld comprised in and demised by, &c.) but that he the sd A B his hrs and ass and evy of them from all este right title int property claim and demand of in to or out of the same manors and preses or any of them or any pt thereof (except as afd) are is and shall be by these prests for ever excluded and debarred *In Witness, &c.*

Right.

Release by an Heir at Law of a Testator to a Purchaser of a Copyhold Estate, where it had been sold by a Trustee under a Will.

This Indre made, &c. Betn (trustee) of, &c. a trustee of the first pt, &c. (heir) eldest son and heir of A B late of, &c. decd of the second pt and (purchaser) of, &c. of the third pt Whas, &c. (recite will devising real and personal estates to the sd trustee upon trust to sell his real estates if his personal estate should not be sufficient for the discharge of his debts And whas (recite death and probate of will) And whas the sd (trustee) since the dece of the sd (testator) hath been admitted to the sd copyhold heredit And whas the real and personal este of the sd (testator) exclusive of the sd copyhd heredit are not sufficient for the payment of his debts and funeral and testamentary exps and the sd (trustee) in pursuance of the power for that purpose in the sd in pt recited will contained hath contracted with the sd (P) for the absolute sale to him of the sd copyhold messes, &c. at or for the price or sum of £ — And whas the sd (P) hath previous to the exon of these prests pd unto the sd (T) the sum of £ — of lful, &c. which the sd (T) doth hby acknge and in conson of the sd sum of £ — so pd as afd the sd (T) at a court baron holden the day of

Recitals.

*Right of
Way.*

last past in and for the sd manor of surren-
dered into the hands of the lord of the sd manor all, &c.
according to the custom of the sd manor To the use of
the sd (P) his hrs and ass to be holden at the will of
the lord of the sd manor according to the custom of the
sd manor *And whas* upon the treaty for the sd purchase
it was agrd that the sd (H) as hr at law of the sd
(*testator*) should rele unto the sd (P) all his este right
title int claim and demand in and to the sd copyhd
hereds. *Now this Indre Witnesseth* That in conson of
the preses He the sd (H) party hereto Hath remised
released and for ever quit-claimed and by, &c. Doth re-
mise, &c. *All those* customary or copyhd messes, &c.
And all the este, &c. of him the sd (H) of into and out
of the sd customary or copyhd messes, &c. unto and to
the use of the sd (P) his hrs and ass for ever *And the*
sd (H) for himself, &c. doth covt, &c. in manner fol-
lowing, &c. (covenants for title)

Testatum.

*Release of a Right of Way in Consideration of the Grant
of another Road.*

This Indre made, &c. Betw A B of, &c. of the one
pt and C D of, &c. of the or. pt *Whas* the sd A B is
seised in fee simple of certain closes which are now or
late were in the occupation of, &c. *And whas* the sd
C D is also seised in fee simple of certain pieces or
parcels of ground lying, &c. *And whas* the sd A B and
all the owners and occupiers of the sd closes have been
accustomed from time immemorial to pass and repass
from the closes of the sd A B to and over the pieces and
parcels of ground belonging to the sd C D either on foot
or on horseback with servants workmen horses carts and
or, carriages at all times of the year *And whas* it would
be much to the benefit and advantage as well of the sd
A B as of the sd C D that the right of passage along the
north side of the sd pieces, &c. of ground should be ex-
tinguished and a right of passage given and granted in
lieu thereof along the west side of the same pieces, &c.
Now this Indre Witnesseth That in conson of the liberty
of passage hnaft given and granted unto the sd A B his
hrs and ass and also in conson of the sum of £ — to
him the sd A B in, &c. pd by the sd C D He the sd A B
Hath remised reld and quitted claim and by, &c. Doth
remise, &c. unto the sd C D his hrs and ass all right title
and claim which the sd A B now hath to the liberty of
passing to and over the sd way or road on the north side
of, &c. either on foot, &c. To the intent that the same
may be extinguished *And this Indre furr Witnesseth*
That in conson of the preses He the sd C D Hath given

Trusts.

and granted and by, &c. *Doth* give, &c. unto the sd A B his hrs and ass full and free liberty and privilege of passing and repassing on foot, &c. or on horseback with servants workmen horses carts and other carriages at all times of the year as he or they shall think fit from the sd closes of the sd A B to and over the road lately made by the sd C D along the west side of the sd pieces, &c. of the sd C D containing by admeasurement feet, &c. *To Have* hold use and enjoy the sd liberty and privilege of passing and repassing on foot or on horseback with servants workmen horses carts and other carriages to and over the sd new road now made, &c. on the sd west side of the same pieces, &c. And the sd A B for himself his hrs exs and ads doth hby covt, &c. with, &c. the sd C D that he the sd A B his hrs and ass shall, &c. at his and their own costs and chas from time to time and at all times for ever hrafrt maintain and keep the sd road in good and sufficient repair witht requiring any satisfaction for the same from the sd C D his hrs and ass or any or. pens claiming, &c. from, &c. him or them or any of them *Provided always* and it is hby decld and agrd by and betn the parties hereto to be the true intent and meaning of them and these prests that in case the sd A B his hrs and ass or his or their servants workmen or any of them shall at any time hrafrt be obstructed or hindered in passing or repassing on foot, &c. to and over the sd road now made, &c. by them the sd C D his hrs or ass or any of them then these prests and every clause herein-contd shall absolutely cease and determine any thing herein-contd to the contrary in any wise notwithstanding *In Witness*, &c.

Release of Trusts on the Transfer of Stock.

To all, &c. (releasor) of, &c. sendeth greeting *Whas* by indre bearing, &c. and made betn, &c. It was thby decld that they the sd (*trustees*) held the capital sum of £ — 3 per cent consolidated Bk Annuities standing in their joint names in the Bk of Engld *Upon Trust* in the first place, &c. (recite trusts, see *Declaration of Trusts*, vol. ii. p. 30.) And *whas* the sd (*T*) have accly transferred the capital sum of £ — Annties to and into the name of the sd (*R*) in fulfilment and completion of the sd trusts in and by the sd recited indre of the day of in them reposed *Now know ye* That for and in conson of the sd transfer and of 5s. apiece by them the sd (*T*) in hand pd to the sd (*R*) at, &c. he the sd (*R*) Hath remised released quitted claim and discharged and by, &c. doth remise, &c. unto them and each of them the

RELEASES, OR DISCHARGES.

Trusts. sd (T) their and each of their exs, &c. of from and agst all actions, &c. and demands whatsr which he the sd (R) now hath or ever had or which he or his exs or ads can shall or may at any time or times hrafrt have claim set up challenge or demand agst them the sd (T) sevlly and resply or their respive exs, &c. for or on acct of the afd sum of £ — Annties so now transferred to the sd (R) as afd or for or on acct of all or any of the trusts matters and things in and by the sd indre of, &c. dectd and provided or for or on acct of any other matter cause or thing whatsr in any manner relative thereto antecedent to the day of the date of these prests *In Witness, &c.*

Release from the Creditors under a Trust-Deed to the Trustees on the Payment of the Dividends.

Recital of
account
and pay-
ments by
trustees.

To all, &c. We whose names and seals are by ourselves or our agents or attornies hereunto subscribed and affixed creditors of A B of, &c. under the trusts of an indre bearing date, &c. and made betn, &c. send greeting *Whas* the sd (*trustees*) have rendered an account of mos pd and recd by them resply on account of the sd crs and the trust estate and the same account or a copy thof is contained in the schedule hereunder-written or hereunto annexed and the creditors pties hereto are satisfied with the same and hby declare their allowance and approbation of the same and the sd (T) have with the consent of the sd creditors caused a dividend on paymt of shillings in the pound to be made on the debts owing to the sd creditors and have agrd to make a further divd of shillings in the pound on the same debts and in pursuance of that agrt have paid to the sd creditors pties hereto the sevl sums set against their respive names as and for a second divd on the debts so due and owing to the sd creditors resply *Now know ye* and these prests witness that we the sd creditors pties hereto do hby severally acknge and declare our respive rects of the sevl sums set agst our respive names as and for a second divd and that the same sums are equal to shillings in the pound on the debts owing to us resply from the sd (T) or the sd A B and we sevlly and resply acquit release and discharge the sd (T) resply and their respive hrs exs and ads and every of them of and from the sevl sums set against our respive names and also of and from all actions and suits claims and demands whatsoever by reason or on acct of the sum pd to us as afd as and for the second divd of shillings in the pound on the debts due and owing to us resply as afd and also by reason or on acct of all or any of the acts and pro-

Testatum.

ceedings of the sd. (T) in the management of the sd trust este and the application thereof as far as the same acts and proceedings appear by the acct contained in the sd schedule *In Witness, &c.*

RENUNCIATIONS, OR DISCLAIMERS.

§ 1. A renunciation, or disclaimer, is an express denial, or renouncing of a claim. A release by one trustee to a co-trustee, will not operate as a disclaimer; *Crewe v. Dicken*, 4 Ves. 97; unless the release be made with intent to disclaim; *Nicolson v. Wordsworth*, 2 Swann. 569. As to the disclaimer of an estate devised, see *Disclaimer*.

2. An executor cannot refuse to take upon him the executorship by word only, it must be by some writing, to be entered and recorded in the spiritual court; *Swinb.* 443. An executor cannot renounce in part, he must renounce altogether, or act as executor, 1 Salk. 297; so an executor, who has once taken on himself the executorship, cannot be discharged from his liabilities as an executor, but by an application to a court of equity, *Doyle v. Blake*, 2 Sch. & Lef. 245.

3. A renunciation, or disclaimer, is charged with a common deed stamp of 1*l.* 15*s.* if under hand and seal, and the further progressive duty of 1*l.* 5*s.* for every 1080 words over and above the first 1080. Stamp.

Renunciation of an Executorship.

Obs. As to the necessity of such a renunciation, see Pref. § 2, and as to the stamp, see § 3.

Know all, &c. that we A B of, &c. C D of, &c. and E F of, &c. the executors named in the last will and testament of G H late of, &c. decd for divers good causes and consons us hereunto moving *Have* and each of us *Hath* renounced and disclaimed and by, &c. *Do* and each of us *Doth* renounce, &c. all our and each and every of our right title or int in or unto the probate and exon of the sd last will or testament of the sd decd and to the letters of administration with the same annexed *And to the intent* that this our renunciation may take due effect in law we the sd (E) *Do* and each and every of us *Doth* hby constitute authorise and appoint T B and F G of, &c. notaries public and two of the proctors of the ecclesiastical Ct of jly and sevely our true and lful proctors for us and in our names to appear before the Right worshipful O M Master of Arts Commissary of the Exchequer court of or his

RENUNCIATIONS, OR DISCLAIMERS.

surrogate or any other competent judge in this behalf and to pray and procure this our renunciation to be accepted and admitted hby promising to ratify and confirm whatar our sd proctors or either of them shall fully do in the preses *As witness* our hands this day of in the yr, &c. 18

Renunciation, or Disclaimer, by a Trustee declining to accept the Trusts of a Will.

This Indre made, &c. Betn A B of, &c. of the one pt and C D of, &c. of the or. pt *Whas* H R late of, &c. decd duly made and published his will and testament in writing bearing date, &c. And thereby bequeathed his personal este to the sd A B and C D their exs ads and ass *Upon Trust* to convert the same into money and to stand possessed thereof upon certain trusts therein mentd and the sd testator devised certain real estes unto and to the use of the sd A B and C D their hrs and ass for ever *Upon Trust* that they the sd A B and C D and the survivor of them his hrs and ass or the trustees or trustee for the time being should absolutely sell and dispose thereof And should make and exte proper deeds and the sd testator thby declared and directed that the rectx of the sd A B and C D, &c. should be good and valid discharges, &c. *And whas* (recite death of testator without altering or revoking his will) *And whas* the sd C D hath alone duly proved the sd will in the Ct of *And whas* the sd A B hath not in any manner acted in the exon of the sd recited will nor hath done any act which may or can amount to the acceptance of the devise of the real estes of the sd testator contd in his sd will And is desirous and hath decld his intention to renounce and wholly disclaim the devises and bequests therein contd *Now this Indre Witnesseth* That the sd A B with the privity and consent of the sd C D testified by his being a party hereto and exting these prestrs *Hath* absolutely and irrevocably renounced and disclaimed and by these presents *Doth* renounce, &c. unto the sd C D his hrs exs and ads all the real and psl estes trusts powers and authties whatar in and by the sd in pt recited will of the sd testator decd devised bequeathed or given to the sd A B and C D their hrs and ass (or unto the sd A B and C D their exs ads or ass or unto the sd A B and C D and the survivor of them, &c.) *In Witness*, &c.

RESIGNATIONS.

§ 1. For a resignation to take effect, it must be made to a proper person; Cro. Jac. 63, Noy, 147. If the living be donative, it must be made to the patron, and not to the bishop, Degg. pl. 1. c. 14. It must likewise be made in person, and not by proxy, *ib.* Wats. Par. L. c. 4. Gibs. Cod. 822.

2. A resignation, must be not only absolute and unconditional, but also voluntary and without any consideration whatever; Wats. c. 4; Godb. 277. So likewise, a resignation will not be valid until it is accepted by the bishop or the patron; Gibs. 822; 3 Burn's Eccl. Law, tit. Resignation. (As to resignations, see further *Bond to resign*, vol. ii. p. 274.)

Resignation of a Benefice.

Obs. This resignation must be brought, read, and executed before a notary public, who subscribes his name thereto, and the day of the date, &c.

In the Name of God, Amen, Before you (a) the Notary Public and credible witnesses here present I, A B Master of Arts rector of in the co of and diocese of for certain just and lful causes me hereunto especially moving witht fraud or deceit do absolutely resign and give up my rectory of the parish church of afd with all and singr the rights members and apts thereunto belonging into the hands of the Right Rev. Father in God by Divine permission Lord Bishop of or of any other person whomsr who hath or shall have power to admit this my resignation *And* I totally renounce my right title and posson in and to the sd rectory of *And* I do quit and expressly recede from them by these prests and that this my resignation may have its full effect I do hby nominate and appt my beloved in Christ (b) C D gent to be my true and lful proctor or substitute to exhibit this my resignation to the sd Right Rev. Father in God and in my name to pray that his lordship would graciously vouchsafe to accept thereof and to pronounce and declare the same rectory void and to be void of any parson to all intents and purps in law that may follow thereupon (c) and to decree that the sd voidance may be intimated to the patron of the sd living
In Witness, &c.

(a) When the resignation is taken before the bishop, say, 'before you the Right Rev. Father in God R by Divine Providence, &c. and credible, &c.'

(b) The bishop's secretary is usually appointed proctor, but any other proctor will do.

(c) This last clause is not necessary where the right of presentation is in the bishop.

REVOCATIONS.

A revocation, is a destroying or making void some deed or instrument that had existence before the act; 1 Lill. Conv. 371.

Revocation of a Power of Attorney.

Letters of attorney, and other personal authorities under seal, may be revoked by instruments of the same nature, that is to say, by deeds under seal, by the persons giving the power, even although they are made irrevocable; 8 Co. 82. Wood's Inst. 286. But where a power of attorney is given as part of a security for money, it is not revocable; *Wahh v. Whitcomb*, 2 Esp. 565.

Know all, &c. that I, A B of, &c. for divers goods causes and consons me hereunto specially moving Have revoked countermanded annulled and made void and by these prests Do revoke, &c. a certain deed-poll or power of atty under my hand and seal bearing date the to C D of, &c. given delivered and exted and all powers and authties whatsr therein expsd and decl'd In Witness, &c.

Revocation of a Deed of Appointment and new Appointment (irrevocable) to the same Uses by Indorsement.

Obs. 1. Deeds of revocation of uses, are founded on a power previously reserved in the deed, whereby the uses were raised, to revoke such uses as were therein contained, and to appoint others in their stead, 2 Comm. 339; but a power can only be executed once, unless the party reserves a new power of revocation, *Shep. Touchst.* 525. All the incidental circumstances, as sealing, subscription of the names of witnesses, and the like, must be observed in the execution of this power, otherwise, the revocation will not be good. (As to revocation, see further, '*Appointment and Settlement.*')

Stamp.

2. A revocation of any use or trust, where not made by deed or will, is chargeable with a stamp of 1*l.* 15*s.* together with the progressive duty of 1*l.* 5*s.*

Testatum.

Know all, &c. that the within-named M M the elder in pursuance of the power or authority for that purpe reserved to her in and by the within-written deed and by force and virtue thereof and of evy or. power and authty to her belonging in her vested or in anywise enabling her in this behalf Hath wholly revoked and by this present deed in writing duly exted by her the sd M M the elder in the presence of and attested by two credible witnesses Doth wholly revoke the appointment and apptmts made or expsd to be made in and by the within-written deed of and concerning the within-mentioned £ — 3 per cent. &c. And these Prests furr Witnesseth that the sd M M in furr pursu-

Further
testatum.

ance of the sd power or authty to her given *Hath* ordered directed and appointed and by this present deed or instrmt duly, &c. *Doth* irrevocably order direct and appt That the sd £ — 3 per cent, &c. shall from and after the dece of the sd M M the elder remain and be *To the use*, &c. (here set out the uses) *In Witness*, &c.

SEPARATION.

Deed of Separation.

Obs. 1. A provision in any instrument, for the separate maintenance of a wife, in contemplation of a future separation at her pleasure, cannot, it seems, after a number of conflicting decisions, be enforced either at law or in equity; *Guth. v. Guth.*, 3 B. C. C. 614. *Rodney v. Chambers*, 2 E. 283. *Lord and Lady St. John*, 11 Ves. 529. *Durant v. Tilley*, 7 Price, 577. But as to deeds operating in *presenti*, courts of equity will still so far countenance them, as to oblige the husband to perform that part of the contract as relates to the payment of the separate maintenance; *Worrall v. Jacob*, 3 Mer. 268.

2. As to the stamp, this comes under the general head of 'deeds not otherwise charged;' unless any sum be settled on the wife, when it would come under the head of *Settlement*.

This Indre made, &c. Betn (*husband*) of, &c. of the first pt (*wife*) his wife of the second pt and (*trustees*) trustees, &c. in behalf of the sd (*wife*) *Whas* (recital of a lease of the preses where the trade was carried on) *And whas* the sd (*H*) with the assistance of the sd (*W*) his wife hath for some time past carried on the trade or business of in or upon the sd messe or tent and preses comprised in the sd in pt recited indre of lease *And whas* the sd (*H*) is possessed of or orwise entitled to divers household goods furniture and stock in trade And there are divers sums of money due or owing from the sd (*H*) in his sd trade or business of *And whas* the sd (*W*) bath in her custody or power the sum of £ — *And whas* divers unhappy differences having arisen betn the sd (*H*) and the sd (*W*) his wife they have mutually agreed henceforth to live separate and apart from each other during the remr of their jt lives *And* upon the treaty for such separation it was agrd betn the sd pties hereto that the sd (*H*) shd relinquish the sd trade or business unto or in favour of her the sd (*W*) and shd assign the sd messe or tent, &c. togr with all the household goods and furniture pictures debts or sums of money and all things named in the schedule hereunto annexed entitled "The first schedule" unto the sd (*T*)

Recitals.

their exs ads and ass *In Trust* for the separate use and bent of her the sd (*W*) subject to the paymt thereof of the sum of £ — as a portion for the daur of the sd (*H*) and (*W*) his wife as hnafr mentd *And* that in conson thereof he the sd (*H*) should rece the sum of £ — so in the custody or power of the sd (*W*) as afd for his own use and bent *And* that the sevl debts and sums of money now due and owing from or by the sd (*H*) mentd and specified in the schedule hereunder written or hereunto annexed entitled "The second schedule" should be wholly borne and pd by the sd (*W*) *And* that the sd (*T*) should enter into such covts for the indemnity of the sd (*H*) as hnafr contd *Now this Indre Witnesseth* that in pursuance of the sd agrmt and in conson of the sum of £ — of, &c. to the sd (*H*) pd by the sd (*T*) at, &c. the rect, &c. *And also* in conson of the covts hnafr contd on the pt of the sd (*T*) *And also* for and in conson of 5s. of, &c. He the sd (*H*) *Hath* granted bargained sold assigned and set over and by, &c. *Doth* bargain, &c. unto the sd (*T*) *All that* the sd messe or tent and all and singr or. the preses in the sd in pt recited indre of lease mentd and described togr with the same indre of lease. *And also* all and singr the pictures household goods furniture articles and things stock and effects in trade debts and sums of money now belonging due and owing to him the sd (*H*) mentd and specified in the schedule hereunder, &c. entitled "The first schedule," &c. *And* all the este of him the sd (*H*) of in and to the sd messe, &c. and of in and to the sd pictures household goods, &c. *To Have and to Hold* the sd messe or tent hby assigned with the apts unto the sd (*T*) their exs ads and ass henceforth for and during all the rest residue and remr of the sd term of yrs now to come and unexpired Subject nevss to the paymt of the rents and performance of the covts and agrmts in the sd hnbeft in pt recited indre of lease reserved and contd and which on the lessee's or tenant's pt and behalf are or ought to be from henceforth pd kept and performed *And also to Have Hold* rece and take all and singr the sd household goods pictures furniture articles and things stock and effects in trade debts and or. the preses hnbeft mentd or hby bargained and sold, or intended so to be unto the sd (*T*) their exs ads and ass as and for their own goods and chattels henceforth absolutely But nevss upon and for the trusts intents and purps hnafr expsd and decl'd of and concerning the same that is to say *Upon Trust* that they the sd (*T*) or the survors of them or the exs or ads of such survivor shall and do within the space of six calr mths next ensuing the date hereof by

Testatum.

Habendum.

with and out of the monies which shall come to their or his hands by virtue of or under these prests or by mtge sale or or. disposition of the sd preses levy and raise the sum of £ — And shall and do stand possessed thereof *Upon the Trusts* and for the intents and purps hnaft expsed and declde of and concerning the same and subject to the paymt of the sd sum of £ — *Upon this furr Trust* that they the sd (T) and the survor of them his exs ads and ass shall and do stand possessed of and interested in all and singr the preses hby bargained and sold as afd *In Trust* for the only proper and separate use and bent of the sd (W) her exs and ads exclusive of him the sd (H) and free from his control restraint interposition debts engagements and incumbs as fully and effectually to all intents and purps as if she the sd (W) were sole and unmarried And to be for that purpe assigned aliened ordered and disposed of from time to time as she or they shall think proper And for the better and more effectually enabling the sd (T) and the survor of them, &c. to recover and rece the sd debts mos and preses hby assigned or intended so to be He the sd (H) *Hath* constituted, &c. and by, &c. *Doth* constitute, &c. the sd (T) and the survor, &c. to be the true and lful atty and attornies, &c. of and for him the sd (H) and in his name or in the names of the sd (T) or the survor, &c. or orwise at the risk costs and chas of the sd (W) to ask demand sue for recover and rece of and from all and evy psn and psns who are or shall be liable to pay the same All and evy the sd debts sums of money and preses hby assd And all int due or to grow due for or in respect of the same resply and upon rect thereof or of any pt thereof to give sign and exte good and sufficient releases and discharges for the same And upon nonpaymt thereof or of any pt thereof resply to bring commence and prosecute any actions suits or or. process at law or in equity for the recovering and compelling paymt thereof and the same to carry on or discontinue as they or he shall think fit And for the purps afd one or more attorney or atties under them or him to nominate and appt and at pleasure to remove and to appt any or. or ors. and generally to make do and exte (see *Powers of Attorney, Gen. Pree.*) And as to for and concerning the sd sum of £ — so to be levied and raised as afd It is hby declde and agrd by and betn the sd pties that they the sd (T) and the survor, &c. shall and do upon rect thereof or of any pt thereof or upon the voluntary paymt thereof or of any pt thereof by her the sd (W) her exs ads or ass lay out and invest the same in the public stocks or

Declaration
of trusts.

Power of
attorney to
trustees.

Declara-
tion of
trusts as to
daughter's
portion.

Covenants
from hus-
band.

That wife
shall peace-
ably enjoy,
&c.

funds of Gt Britn or upon Govt or real securities at int in England and shall and do stand possessed of and interested in the sd sum of £ — and the stocks and secties in or upon which the same shall or may be laid out or invested *In Trust for (daughter) the daur of the sd (H and W) and to be an int vested in and to be pd or transferred to her at her age of 21 yrs But in case she the sd daur shall happen to die under the age of 21 yrs Then in Trust for the sd (W) her exs ads or ass for her sole and separate use and bent independent of the sd (H) her husband and not to be subject to his debts control or engagements And upon furr Trust that they the sd (T) and the survivor, &c. shall and do in the mean time until the sd daur shall attain her age of 21 yrs or shall previously die under that age pay the income or the int divds and annual produce of the sd £ — or the stocks funds and secties in or upon which the same shall or may be invested unto the sd (W) if she shall so long live and in case of her death then unto the guardian or guardians for the time being of the sd daur to be by the sd (W) or such guardian or guardians applied for or towards the maintenance education and support of the sd daur And it is hby agrd and decld by and betn the sd pties hereto that the rect or rects of the sd (T) or the survivor, &c. for all or any pt of the sd sum of £ — so directed to be raised as afd shall be a good and effectual rele and discharge for the money therein expsd to be recd And that after such rect or rects shall be given the psn or psns to or for whom the same shall be so given shall not be obliged to see to the application or be in anywise answerable for the misapplication of such money or any pt thereof And in conson of the preses He the sd (H) for himself his hrs exs ads and ass doth hby covt promise and agree with and to the sd (T) and evy of them that the sd messe or tent household goods furniture pictures stock in trade sum and sums of money and preses hby assigned And also all and evy sum and sums of money goods chattels effects and este whater which shall or may from time time hrafter be given or bequeathed to or in trust for or be acquired by the sd (W) shall be remain and continue to and for the sole and separate use and bent of her the sd (W) as if she were sole and unmarried And she the sd (W) shall have lful and absolute power to have hold rece perceive enjoy manage order transfer give alien sell lay out dispose of and appt the same preses and evy pt thereof and all the int divds proceeds increase and improvement thereof and of every pt thereof at her own*

free will and pleasure witht the let hindrance intermeddling denial disturbance control claim or demand of him the sd (H) or witht having the same subject or liable unto the sd (H) or to his debts or incumbs *And also* that it shall and may be lful to and for the sd (W) by her last will and testmt to give and dispose of all such separate este as afd unto such psn or psns as she shall think fit and proper notwithstanding her coverture *And also* that he the sd (H) his hrs exs ads and ass shall and will permit and suffer the same to be held and enjoyed accordingly *And* at the request costs and chas of any psn or psns whom it shall or may concern do any rease act or acts assurance or assurances for the ratifying and confirming such last will and testmt and all and evy the bequests and disposition thby made *And furr* that she the sd (W) shall from time to time and at all times hrafr live separate and apart from him the sd (H) in such place or places and in such manner as she shall think fit *And* shall have full and free liberty to go come pass and repass to and from all and evy place or places wheresoever she shall think fit to go be or reside witht any let hindrance molestation interruption or disturbance of from or by him the sd (H) or by his means or procurement in anywise howsr *And* that he the sd (H) shall not nor will at any time or times hrafr force or compel nor do nor cause or procure to be done any act matter or thing whatsr whby to force or eompel the sd (W) his wife to live or cohabit with him the sd (H) nor bring sue or prosecute or cause or procure to be brought sued or prosecuted any action or suit at law or in equity or in any ecclesiastical court in order to compel the sd (T) their exs or ads or any or either of them or any or. psn or psns whomsr for or by reason or on acct of his or their receiving entertaining or detaining the sd (W) nor shall or will in anywise hrafr molest or trouble her the sd (W) or cause or procure her to be molested or troubled on account of her not cohabiting with him the sd (H) or by reason of her living with any or. psn or psns in any place or places or on any acct or for any cause or pretext whatsr *Provided always* and it is hby decld and agrd by and betn the sd pties to these prests and evy of them that the sd separate este and effects of the sd (W) so assd or intended so to be for her separate use as afd shall in the first place be liable and subject to the indemnifying of the sd (H) his exs ads and ass his and their lds and tents goods and chattels of from and agst all and evy the sd debts and sums of money due and owing by the sd (H) and specified in the schedule

And live
apart.

Proviso for
indemnify-
ing hus-
band, &c.

SEPARATIONS.

Covenants
from trust-
tees.

That wife
shall pay
rent and
perform co-
venants of
lease, &c.

Covenants
from hus-
band for
title.

Not release
debts, &c.

hereunder, &c. entitled the second schedule and of from and agst all and all manner of debt or debts whatsr which the sd (*W*) shall or may at any time or times hrafr contract with any psn or psns whomsr for her maintenance lodging clothes or orwise howsr And of from and agst all and all manner of actions suits costs chas dams and exps whatsr which shall or may be commenced or brought against him the sd (*H*) his exs ads or ass or which he or they or any of them shall or may at any time or times suffer sustain pay bear expend or be put unto for or by reason or means or on acct of any such debt or debts And in conson of the preses they the sd (*T*) do hby for themselves jly and sevly and for their respive hrs exs and ads covt promise and agree with and to the sd (*H*) in manner following that is to say That she the sd (*W*) shall and will from time to time and at all times hrafr during the continuance of the sd term of yrs granted by the sd in pt recited indre of lease pay the sd yrly rent and perform and fulfil all and evy the covts and agrmts in the sd in pt recited indre of lease contd which from henceforth by and on the pt of the lessee are or ought to be pd performed and kept according to the purport true intent and meaning of the same recited indre And also that the sd (*W*) her exs or ads shall and will pay satisfy and discharge All and evy the debt and debts sum and sums of money mentd and specified in the sd schedule entitled the second schedule And furr that they the sd (*T*) their hrs exs or ads or some or one of them shall and will from time to time and at all times hrafr well and sufficiently save defend keep harmless and indemnified the sd (*H*) his hrs exs ads and ass and his and their lds tents goods and chattels as well from and agst all the sd rent and covts of the sd in pt recited indre of lease and the sd sevl debts and sums of money mentd and specified in the second schedule as afd as also of and from and agst such debts and sums of money which she the sd (*W*) shall at any time or times whilst she shall live separate and apart from the sd (*H*) contract or owe to any psn or psns whomsr And the sd (*H*) doth covt, &c. (that the lease is a good, &c. lease and that trustees shall quietly enjoy free from incumbs, &c. see *Assignments*) And furr that he the sd (*H*) or any psn or psns by his order or for his use shall not nor will at any time or times hrafr make do commit or suffer any act matter or thing whatsr whby any debt or debts sum or sums of money now due and owing to him the sd (*H*) and hby assd or intended so to be shall or may be released compounded or orwise discharged unless it be with the

consent in writing of the sd (*W*) her exs ads or ass nor shall nor will revoke the power and authty hby granted nor obstruct or hinder the sd (*T*) or the survivor, &c. their or his atty or atties agent or agents nor the sd (*W*) her exs ads or ass in the collecting receiving or recovering the sd debts and sums of money And also that the sd (*H*) his exs and ads at the request costs and chas of the sd (*W*) her exs ads or ass or of the trustees or trustee for the time being shall and will from time to time and at all times hrasfr make do and exte all and evy such furr and or. lful-and-rease acts deeds assignments and assurs matters and things whater for the furr and better assigning and assuring the sd leasehold and or. preses hby assigned or intended so to be unto them the sd (*T*) their exs ads and ass upon the trusts and for the intents and purps hnbeffe expasd and declod of and concerning the same In Witness, &c.

SETTLEMENTS.

§ 1. A settlement, is a deed or instrument commonly made previous to or in contemplation of a marriage, the object of which, is to provide for the wife and issue of the marriage; if it be framed so as to put it out of the power of the parents to bar their issue, it is called a strict settlement. This is usually done, by limiting the estate to the use of the husband for life, remainder to trustees to support contingent remainders, remainder to the wife for life, remainder to other trustees for raising portions, &c. remainder to the first and other sons in tail male, remainder to the daughters as tenants in common with cross remainders between them, remainder to the husband in fee. In settlements not so strict, it is usual to limit the estate to such son or sons of the marriage, as the husband or both the parents, or the survivor of them, or in some cases as the wife shall by deed or will appoint, and to the heirs of his or her body; and in default of such appointment, to the first and other sons in tail male in the usual manner, or in tail general. By the 29 Car. II. c. 3, s. 4, no action shall be brought upon consideration of marriage, unless there be some memorandum or writing; but it has been held, that a verbal promise before marriage, is a sufficient consideration to support a settlement made agreeably to it after marriage; *Montague v. Marwell*, 1 Str. 235.

Definition.

2. Any one who is able to sell or dispose of his property, may make a settlement of it; so a *feme covert* may likewise make a settlement under a power, or of property which she possesses to her own separate use; *Seaman v. Duil*, 10 Ves. 581; *Gage v. Lister*, 2 B. P. C. 4; or of property gained in trade, provided she trade under an agreement before marriage, otherwise it is not good, as against the creditors of the husband; *Jarman v. Woollaston*, 3 T. R. 618; *Slaving v. Style*, 3 P. Wms. 337; so a female infant

Who may make a settlement.
Feme covert.

Female infant.

Aliens not of real estate without licence.

What may be settled.

may, by agreement before marriage, bar herself of her dower and freebench, *Chitty v. Chitty*, 3 Ves. 545; and it will be binding if a certain and permanent provision be made for her in lieu thereof; *Caruther v. Caruther*, 4 B. C. C. 500. An agreement also entered into by her parents and guardians, in which she is not a party, will also be binding; *Seamer v. Bingham*, 3 Atk. 55. A female infant may also bind her personal estate before marriage; *Williams v. Williams*, 1 B. C. C. 152. *Pyke v. Pyke*, 1 Ves. 377; and also her real estate, provided the settlement be in her favour; *Cannell v. Buckle*, 2 P. Wms. 243. An alien cannot make a settlement of his real estate without the licence of the Crown, although he may of his personal estate.

3. Every species of property, personal and real, may be the subject of a settlement, whether the interests therein be absolute or partial, as estates in fee simple for years or life, legal or equitable, in possession or reversion; so likewise contingent interests, as contingent remainders, executory devises, conditional limitations, and springing uses, may be bound in equity by a settlement, if entered into for a valuable consideration, as love, affection, and advancement of children; but equity will not support such settlements in favour of mere volunteers. *Choies in action* may also be the subject of a settlement in equity, though not at law; *Gurnell v. Wood*, Willes. 211. By the 11 Hen. VII. c. 21, the alienation of estates *ex provisione viri* is prohibited, and by the 34 and 35 Hen. VIII. c. 20, that of estates tail in the gift of the Crown. Consequently of such estates, no valid settlement can be made, otherwise than as the law has been altered by the 3 & 4 W. IV. c. 74, s. 17. See *Appendix*.

4. Settlements in consideration of an intended marriage, have always been held to be within the proviso in the 13 El. c. 5, and 27 El. c. 4, in favour of conveyances made *bona fide*, and upon valuable consideration, *Terry v. Terry*, Prec. Ch. 275. But a settlement executed after marriage, unless in pursuance of a bond or agreement entered into before marriage or in some few other very particular cases, is deemed fraudulent against such persons as were creditors at the time the settlement was made; *Brown v. Jones*, 1 Atk. 187.

Clauses in a deed of settlement.

Impeachment of waste.

Arrears of pin-money.

Tenants in common.

Marriage without consent.

5. The clauses proper to be inserted in deeds of settlement vary according to the nature of the property and the intentions of the parties. The clause usually inserted in a deed of settlement, 'without impeachment of waste,' will not enable a tenant for life to cut down timber trees planted or growing for ornament, *Burgess v. Lamb*, 16 Ves. 174. As a rule, an annuity to a wife by way of what is termed pin-money, will not be suffered to run in arrear beyond one year; except where the wife lives separate from her husband, or, as it should seem under other circumstances, where length of time was not considered to run, *Aston v. Aston*, 1 Ves. 266. It was formerly held that no restraint should be imposed on the alienation by a married woman of her separate property, but the validity of the clause, 'not by way of anticipation,' is now established, *Jackson v. Hobhouse*, 2 Mer. 488. Although courts of equity do not favour joint-tenancy in the construction of deeds, yet it is prudent to obviate all questions by making the limitation express 'to the children,' or 'to the daughters as tenants in common,' *Taggart v. Taggart*, 1 Sch. and Lef. 88; but there must be added words of inheritance, as, 'to the heirs of the body of, &c.' otherwise the children will take only an estate for life, *Snell v. Silcock*, 5 Ves. 469. A clause in restraint of the marriage of daughters, without the consent of parents,

guardians, or trustees, are usual in strict settlements, and will be supported in courts of equity, *Dashwood v. Ld. Bulkeley*, 10 Ves. 230. Where there is a clause of survivorship, it must be made to extend to the accruing as well as to the original share, otherwise it will not be subject to a new survivorship, *Perkins v. Allickethwaite*, 1 P. Wms. 275; *Rudge v. Barker*, Ca. Temp. Talbot, 124; *Pain v. Bacon*, 3 Atk. 80. *Ex parte West*, 1 B. C. C. 575. As cross remainders cannot be raised by implication upon construction of a deed, they must be limited in express terms, *Cole v. Livingston*, 1 Ventr. 224; *Twisden v. Lack*, Ambl. 663; *Doe v. Wainwright*, 5 T. R. 427; *Fouquet v. Worsley*, 1 E. 416. Where in a settlement there is a provision for raising portions, it is prudent to add that the payment of portions should be postponed until the death of the parents, or one of them, *Codrington v. Ld. Foley*, 6 Ves. 364; and although in the absence of all stipulation, portions will vest at twenty-one or marriage, *Schenck v. Leigh*, 9 Ves. 300; *Powis v. Burdett*, ib. 428; *King v. Hake*, ib. 438; yet it is safer to add an express provision to that effect. In modern settlements it is usual to insert a clause, that if any one of the younger children become the eldest, his share shall go over; but without this clause, equity will consider every child, except the heir, as the younger, *Ld. Teynham v. Webb*, 2 Ves. 203. A power of appointment to children will not extend to grandchildren, *Alexander v. Alexander*, 2 Ves. 640; *Bristol v. Warde*, 2 Ves. Jun. 356; *Brudenel v. Elwes*, 1 E. 442, S. C. 7 Ves. 382: the power ought therefore to be extended in express terms. A power to make partition of an estate will not authorize a sale or exchange, Sugd. Pow. 484. 5th ed.; but it seems to be settled that the usual power of sale and exchange will authorize a partition, *Abel v. Heathcote*, 2 Ves. Jun. 100. To obviate all questions, however, it is usual, when the case requires it, to insert the words 'to make partition.' A general power of revocation in a settlement will be void against a purchaser, although the power is only conditional, *Standen v. Bullock*, cited in *Twisden's Case*, 3 Co. Litt. 82; *Griffin v. Stanhope*, Cro. Jac. 454; *Lavender v. Blackstone*, 3 Keb. 526; unless where the power is to be exercised with the consent of persons who are not under the control of the settlor, *Leigh v. Winter*, Sir W. Jones, 411, or where the money is to be paid to trustees to be vested in other estates, *Doe v. Martin*, 4 T. R. 39. A naked power will not survive, Dy. 177, b. pl. 32; Co. Litt. 113, a; *Peyton v. Bury*, 2 P. Wms. 628; *Townsend v. Wilson*, 1 B. and A. 616; it must therefore be given to the trustees expressly by the words, 'and the survivors and survivor of them and the executors administrators and assigns of such survivor.' So trustees are not authorized to do several other things, without an express authority to that effect; namely, to apply the interest of portions for the maintenance of younger children, *Farrington v. Green*, 10 Ves. 48; *Errington v. Chapman*, 12, ib. 20; or to apply any part of the portion of a child for his advancement, *Walker v. Wetherell*, 6 Ves. 473; or change the securities upon which trust monies are placed, *Harrison v. Harrison*, 2 Atk. 121; or to lay out money in a fund which the Court does not adopt, *Haucom v. Allen*, 2 Dick. 498; or appoint new trustees, *Buchanan v. Hamilton*, 5 Ves. 721; but now, by the 1 W. IV. c. 60, the Court of Chancery may appoint new trustees on petition. As to the receipts of trustees, see *Annuity*, Pref. § 10, and *Composition*, Obs. 5, vol. i. p. 301. As to the indemnity to trustees, see *Composition*, Obs. 2, vol. i. p. 306.

Clause of survivorship.

Cross remainders.

Payment of portions.

Vested interests.

Appointment.

Partition sale and exchange.

Power of revocation.

Naked powers do not survive.

Powers to trustees;

to apply portions, &c.

Stamp.

6. The stamp charged on a deed of settlement, when there is any definite principal sum to be settled, if not amounting to 1000*l.* is 1*l.* 1*s.*; if amounting to 1000*l.* and not to 2000*l.* 2*s.*; to 2000*l.* and not to 3000*l.*, 3*s.*; to 3000*l.* and not to 4000*l.*, 4*s.*; to 4000*l.*,

and not to 5000*l.*, 5*l.*; to 5000*l.* and not to 7000*l.*, 7*l.*; to 7000*l.* and not to 9000*l.*, 9*l.*; to 9000*l.* and not to 12,000*l.*, 12*l.*; to 12,000*l.* and not to 15,000*l.*, 15*l.*; to 15,000*l.* and not to 20,000*l.*, 20*l.*; to 20,000*l.* and upwards, 25*l.*; besides the progressive duty of 1*l.* 5*s.* Duplicates charged with the same duties, bonds and mortgages operating as settlements, and chargeable as bonds or mortgages, are exempt from the settlement duty; also deeds merely declaring the trusts of any money pursuant to a settlement, also wills, and all testamentary dispositions *mortis causâ* of every description.

Settlement of Freeholds to strict Uses.
(General Precedent.)

Obs. As to the nature of a strict settlement, see Pref. § 1; as to the stamp, see § 6; and for variations, where it is a settlement of entailed estates, see *Fines and Recoveries*, vol. ii. p. 96.

Contract
for mar-
riage.

Testatum.

Habendum
to trustees
upon trusts.

To husband
until mar-
riage.

This Indre made, &c. Betn (*intended husband*) of, &c. of the first part (*intended wife*) daur of, &c. spinster of the second pt A B of, &c. and C D of, &c. of the third pt E F of, &c. and G H of, &c. of the fourth pt and I K of, &c. and L M of, &c. of the fifth pt *Whas* (recite seisin of intended husband) *And whas* a marriage hath been agrd upon and is intended shortly to be solemnized betn the sd (*I H*) and (*I W*) *And* upon the treaty for the sd marre it was agrd that the sd manors messes and hereds shd be conveyed and settled to the uses upon the trusts and subject to the powers provos and declons hnaft expressed concerning the same *Now this Indre Witnesseth* That in conson of the sd intended marre (a) and also in conson of 10*s.* of, &c. by the sd A B and C D in hand, &c. pd to the sd (*I H*) at, &c. the rect, &c. He the sd (*I H*) *Hath* granted bargained sold aliened and released unto the sd A B and C D (in their actual posson, see *Releases, Gen. Prec.*) and to their hrs and ass *All those* manors messes, &c. And all and singular the houses edifices buildings outhouses barns stables coachhouses cottages dovecots yards gardens orchards backsides tofts lands meadows, &c. (see vol. ii. p. 346) *And* the revn, &c. *And* all the este, &c. *To Have and to Hold* the sd manors, &c. unto the sd A B and C D their hrs and ass for ever *To* and for the several uses intents and purps upon the sevl trusts and with under and subject to the sevl powers provos limitons declons and agrts expssd and decld of and concerning the same that is to say *To the use* of the sd (*I H*) until the sd intended marre shall be had and solemnized and from and after the so-

(a) If it be so agreed, say, 'And of the fortune of the sd (*I W*) to which the sd (*I H*) will become entitled in right of his wife,' and add, if necessary, 'as also of any other property which may hraft accrue to her.'

lemnization thereof to the use of the sd E F and G H for and during and unto the full end and term of 99 years to commence and be computed from the solemnization of the sd intended marriage and fully to be complete and ended witht impeachment of waste or. than wilful or malicious waste upon the sevl trusts and to and for the sevl intents and purps hnaft decl'd and expsd of and concerning the same And from and after the expiration or or. sooner determination of the sd term of 99 years and in the mean time subject thereto and to the trusts thereof *To the use of the sd (I H) and his ass for and during the term of his natural life witht impeachment of or for any manner of waste And from and immly after the determination of that estate by forfeiture or orwise To the use of the sd A B and C D and their hrs during the life of the sd (I H) In Trust to preserve the contingent uses and estes hnaft limited from being defeated and destroyed and for that purpe to make entries and bring actions as occasion shall require but nevss to permit and suffer the sd (I H) his hrs and ass to rece and take the rents issues and prfts thereof to and for his and their own use during his life And from and after the dece of the sd (I H) Then in Trust and to the end intent and purpe that the sd (I W) his intended wife and her ass if she shall survive the sd (I H) her intended husband shall and may immly after his dece out of all and singr the manors messes or tents lds heredit and preses hby granted reld or orwise assured have receive perceive and take for and during the term of her natural life for her jointnre and in bar of all dower thirds freebench and customary or widow's pt and pts which she the sd (I W) might have or claim in or out of any of the real estes which the sd (I H) shall be seised of at any time or times during the sd intended coverture one annual rent or yrly sum of £ — of lful, &c. to be yrly issuing and paye out of the same preses as afd to be pd to the sd (I W) her appointees and ass at or in the common dining-hall of the Inner Temple, London, by even and equal quarterly payments on the four days herein-after mentd that is to say on the, &c. without any deduction or abatement whatsr for or in respect of any taxes chas rates duties assessments or impositions now or hraft to be taxed charged rated or assessed or imposed upon the heredit and preses or any pt thereof chargeable with the payment of the sd annty or yrly rent charge of £ — by authty of Parliamnt or orwise howsr or for or on acct of any or. cause matter or thing whatsr the first quarterly payment of the sd annty or yrly rent charge of £ — to begin and be made on such of the sd days or times of payment as shall first or next happen*

Freeholds

To trustees
for term of
99 years.To preserve
contingent
remaindersThen in
trust for
wife to re-
ceive an-
nuity of
£ —
during her
life.

Freeholds. after the dece of the sd (*I H*) and a due and proportionate part thereof to be payable and pd for and in respect of so many days as shall or may elapse from the last quarterly day of payment (*a*) next preceding her dece up to the day of her dece *And* to this furr use intent and purpe that in case the sd annuity or yrly rent-charge or sum of £ — shall happen to be behind or unpd or any part thereof by the space of 31 days next after any one of the sd days of paymt whereon the same ought to be pd as afd Then and so often and from time to time it shall and may be lful for the sd (*I W*) and her ass into and upon the same preses out of which the sd annty or yrly rent-charge or sum of £ — is to be issuing as afd and every of them and any pt thereof to enter and distrain and the distress and distresses then and there found to take lead drive carry away and impound and in pound to detain and orwise to demean therein according to law until the sd annuity or yrly rent-charge and evy pt thereof so in arrear and unpd and all costs and dama sustained by reason of the nonpaymt thereof contrary to the true intent and meaning of these prests shall be fully satisfied and pd *And to this further use* intent and purpose that in case the sd annty or yrly rent-charge or sum of £ — or any pt thereof shall be behind or unpd by the space of 40 days next after any of the sd days of payment whereon the same ought to be pd as afd Then and in such case (although no legal demand thereof shall have been made) it shall and may be lful to and for her the sd (*I W*) and her ass into the sd preses charged and chargeable therewith or into any pt or pel thereof in the name of the whole to enter and to rece and take the rents issues and prfts thereof to her and their own proper use until thereby or therewith or orwise the sd (*I W*) or her ass shall be fully satisfied and pd all the arrears of the sd annty or yrly rent-charge and all paymts which during such posson shall accrue or grow due togr with all costs chas dams and exps that he she or they shall be put unto or sustain by reason of the nonpayment thereof contrary to the true intent and meaning of these prests and that such posson when taken shall be without impeachment of waste other than wilful and malicious waste *And as to for and concerning* the sd messes and preses mentioned to be hby grantel and reld as afd with their apts from and after the dece of the sd (*I H*) subject to and chagd and chargeable with the sd annual rent or yrly sum of £ — and to the powers and remedies hby given and provided for the recovery thereof *To the use and behoof* of the sd *I K* and *L M* their exs ads and ass

Powers of distress,

and entry.

To trustees for 1000

(*a*) As to this clause, see *Annuity*, Pref. § 3.

for and during and unto the full end and term of 1000 years from thence next ensuing witht impeachment, &c. but upon the trusts and to and for the ends intents and purps and subject to the provos hnafttr decl'd of or concerning the same And from and after the end expiration or or. sooner determination of the sd term of 1000 yrs and also in the mean time subject only thereto and to the trusts thereof *To the Use (a)* of the first son of the body of the sd (*I H*) on the body of the sd (*I W*) his intended wife to be begotten and of the heirs male of such first son lfully issuing And in deft of such issue *To the Use* of the second son of the body of the sd (*I H*) on the body of the sd (*I W*) to be begotten and of the hrs male of the body of such second son lfully issuing And in deft of such issue *To the Use* of the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, and all and evy the or. son and sons of the body of the same (*I H*) on the body of the sd (*I W*) his intended wife to be begotten sevlly successively and resply and in remir one after anor as they and evy of them shall happen to be in priority of birth and seniority of age and of the sevl and respive hrs male of his and their body and bodies the elder of such son and sons and the hrs male of his and their body and bodies being always preferred and to take before the younger of such son and sons and the hrs male of his and their body and bodies issuing And for deft of such issue *To the Use* of all and evy the daur and daurs of the sd (*I H*) on the body of the sd (*I W*) his intended wife lfully to be begotten if more than one equally to be divided betn them share and share alike as tenants (*b*) in common and not as jt tenants and of the sevl and respive hrs of the body and bodies of all and evy such daur and daurs lfully issuing (*c*) and if there shall be but one such daur then to the use of such only daur and the

Freeholds

years upon trusts following.

Remainder to the first and other sons in tail male.

Remainder to the daughters in tail general.

(a) If the limitation be to such children as the parents shall appoint, and in default of appointment to sons in tail male, (see Pref. § 11) say, '*To the use of all and evy such son or sons of the body of the sd (*I H*) on the body of the sd (*I W*) to be begotten to and for such estes and ints and in such pts shares and proportions manner and form as they the sd (*I H*) and (*I W*) or the survor of them at any time during their jt lives by any deed, &c. sealed and delivered in the presence of, &c. shall direct limit and appt and until such direction limitation or apptmt *To the use of the first son, &c. as above.**

(b) See Pref. § 5.

(c) If it be intended to create cross remainders, (see Pref. § 5) then say, 'And if one or more such daurs shall happen to die witht issue [or, 'in case there shall be a failure of issue of the body or bodies of any such daur or daurs] then as to the share or shares of her or them so dying witht issue [or, 'whose issue shall so fail'] *To and to the use of the survors or ors of them share and share alike and the hrs of their respive bodies issuing And if all such daurs but one shall happen to die witht issue [or 'in case there shall*

Cross remainders.

Freeholds hrs of her body lfully issuing (a) and in deft and failure of such issue to the use of him the sd (I H) his hrs and ass for ever And as to for and concerning the sd term of 99 yrs hnbefe limited in use to the sd E F and G H it is hby decld that the same term is so limited to them upon the trusts and to and for the intents and purps and under and subject to the provos and agrts hinaft decld or expsd concerning the same that is to say *Upon Trust* that they the sd E F and G H and the survor (b) of them his exs and ads do and shall yrly and evy yr during the sd term of 99 yrs if the sd (I H) and the sd (I W) shall jly so long live by with and out of the rents issues and prfts of the sd manors, &c. and preses hnbefe mentd to be hby granted and reld as afl or of some pt or pts thereof or by mtge sale or demise thereof or of some pt thereof or by any or. lful ways or means whatsr levy and raise the annual sum of £— of lful money and do and shall pay apply and dispose of the same by quarterly payments at the days of payment hnbefe mentd by even and equal portions free and clear of and from and witht any deduction or abatement for or in respect of any taxes chas or impositions or or. matter cause or thing whatsr unto such psn or psns only and for such intents and purps only as she the sd (I W) notwithstanding her intended coverture shall from time to time [after (c) the same shall come due but not sooner or orwise by way of anticipation] by any writing or writings to be signed with her own proper hand direct or appt to rece the same and in deft of such direction or apptmt and in the mean time and from time to time until the sd (I W) shall make any such direction or apptmt do and shall pay the sd annual sum of £— or so much thereof

Trusts of the term of 99 years.

To raise an annual sum of £— for wife by way of pin-money.

be a failure of issue of the bodies of all such daurs but one] or if there shall be but one such daur then to, &c.' *as above*.

(a) If the limitation be to the daurs in tail male, remainder to the sons and daughter in tail general, then say, instead of the limitation above, 'And in deft of such issue *To the use of the first daur of the body, &c.* and the hrs male of the body of such daur issuing and for deft of such issue *To the use of the second, &c.* and all and evy or. the daur of the body, &c. successively and in remr one after another as they and every of them shall be in seniority, &c. and the heirs male of such daur, &c. Remainder to the first son of the body, &c. and the heirs of such first son lfully issuing and for deft of such issue *To the use of the second thrd, &c.* sons sevly, &c. and to the sevly and respive heirs of the body, &c. of such second, &c. son And for deft of such issue to the use of the first daur, &c. and the hrs of the body of such daur lfully issuing And in deft of such issue *To the use of the second thrd, &c.* daur and the sevly and respive hrs of the body, &c. of such daur, &c. And in deft of such issue, *To the use of him the sd (I H) his hrs and ass for ever*'

(b) As to the necessity of this word, see Pref. § 5.

(c) As to the validity of this restraining clause, see Pref. § 5.

whereof the sd (*I W*) shall make no such direction or apptmt into the proper hands of the sd (*I W*) exclusive of the sd (*I H*) her intended husband who is not to intermeddle therewith neither is the same to be subject to his debts control or engagements and the rectx in writing of the sd (*I W*) and her appointees shall from time to time be good and effectual reles and dischas for such sums of money as in such rectx shall be expsd to be recd and the first payment of the sd annual sum of £ — shall begin and be made on such of the sd days of payment as shall first happen after the solemnization of the sd intended marre *And upon this furr trust* That the sd E F and G H or the survivor, &c. do and shall from time to time after full payment and satisfaction of the sd yrly sum of £ — and all chas and exps in the exon of the trusts afd or in anywise relating thereto permit and suffer the residue and overplus of the rents issues and prfts of the preses to be had and recd by the sd (*I H*) or his ass to and for his and their own proper use and bent *Provided always* and it is hby agrd and decl'd that if the sd (*I H*) do and shall from and after the solemnization of the sd intended marre and during the jt lives of the sd (*I H*) and (*I W*) his intended wife well and truly pay or cause to be pd into the proper hands of the sd (*I W*) for her separate use and disposal as afd or to such psn or psns as she shall appt as afd the sd clear yrly sum of £ — of lful, &c. by equal quarterly paymts on the days and in the manner afd then and in such case it shall and may be lful to and for the sd (*I H*) and his ass to rece and take to his and their own use the whole rents issues and prfts of the preses comprised in the sd term of 99 yrs as afd *And* the sd (*I H*) for himself his hrs, &c. doth hby covt, &c. with and to the sd (*T*) and each of them their and each of their. exs. and ads that he the sd (*I H*) shall and will from and after the solemnization of the sd intended marre well and truly pay or cause to be pd into the proper hands of the sd (*I W*) or unto such psn or psns as she shall direct or appt as afd for her separate use and disposal as afd the sd clear yrly sum of £ — as afd at the times and in the manner hnbefo limited for paymt thereof according to the true intent and meaning of these prests *Provided always* and it is hby agrd and decl'd that upon the dece of either of them the sd (*I H*) and (*I W*) his intended wife first dying and full payment made to her the sd (*I W*) her exs, &c. or to her sd (*T*) of the sd yrly sum of £ — as afd and all arrears thof and all costs chas dams and exps to be incurred or sustained by her or them for or

Freeholds.

Receipts of wife to be good discharges.

Permit husband to receive residue of rents.

Proviso that husband, on payment of the sd annual sum, may receive the whole of the rents.

Husband covenants

that he will pay annual sum to wife, &c.

Cesser of term of 99 yrs.

Freeholds. by reason or in respect of the nonpayment or detention of the sd yrly sum or any pt thereof or orwise in relation thereto the sd term of 99 yrs of and in the sd manors, &c. comprised in the same term shall cease determine and be void any thing herein contained in anywise to the contrary notwithstanding *Provided always* (a) and to prevent the incurring of any large arrears of the sd yrly sum of £ — it is hby decld that neither the sd preses comprised in the sd term of 99 yrs nor the sd (I H) his hrs exs or ads shall be any ways liable to answer and that the sd E F and G H or the trustees of the same term for the time being shall not by any ways or means befementd raise and levy or by any suit at law or in equity recover at any one time more than one yr and a half arrears of the sd yrly sum of £ — precedent to the raising or levying the same or to the commencing any suit at law or in equity or to the making an entry upon the sd preses comprised in the sd term of 99 yrs or any pt thereof for the purpe of recovering the same over and beside the costs dams and exps incurred or sustained by the nonpayment or detention of the same *And as to for and concerning* the term of 1000 yrs limited in use to the sd I K and L M their exs, &c. as afd of and in the sd manors, &c. hnbefe-mentd it is hby agrd and decld by and betn all the sd pties to these prests to be the true intent and meaning of them and of these prests that the same term is limited to them upon the sevl trusts and to and for the sevl intents and purps and under and subject to the provos hnafttr decld or expsd of or concerning the same that is to say *In Trust* in the first place for the furr and better securing to the sd (I W) and her ass for her life in case she shall happen to survive the sd (I H) the sd annual rent-charge or yrly sum of £ — hnbefe made paye to her for her jointure clear of all chas and witht any deduction or abatement whatsr as the same shall become due and paye And for that end and purpe in case the sd annual rent or yrly sum of £ — or any pt thof shall at any time or times be behind or unpd for the space of forty days next after any of the days or times at or upon which the same is hereinbefe made paye as afd then in such case and so often as the same shall happen it shall be lful for the sd I K and L M and the survor of them and the exs ads and ass of such survor and he and they are hby expssly authorized from time to time to enter into and upon all and evy or any pt or pts of the sd manor messes, &c. and to rece and

Clause to prevent great arrears of pin-money.

Declaration of trusts of 1000 years' term,

or trust for better securing intended wife's jointure.

(a) As to arrears of pin-money, see Pref. § 5.

take the rents issues and prfts thereof and by and out of the same rents, &c. or by mtge or sale of all or any pt of the sd manor, &c. or by bringing actions agst the tenants or occupiers of the same preses for the recovery of the rents then due and in arrear or by all or any of the sd ways and means or any or. ways and means to levy raise and pay such arrears of the sd annual rent or yrly sum of £ — as shall be so from time to time due and unpd to her the sd (I W) or her ass togr with all such costs chas dams and exps as she the sd (I W) her exs ads or ass or her sd trustees or any of them shall or may expend sustain or be put to by reason of the non-payment of the sd annual rent or yrly sum or any pt thereof or orwise in exon of the sd trusts and to pay the overplus (if any) of the mos levied and raised by the ways and means afd to the psn or psns next in remr to rece and take the rents issues and prfts of the sd preses subject nevss to the proviso or power hnafr-contd *And upon this furr trust* That in case there shall be any child or chn of the body of the sd (I H) on the body of the sd (I W) his intended wife to be begotten other than an eldest (a) or only son for the time being entitled under the limitations hnbefe contd to the sd manors, &c. they the sd I K and L M and the survor, &c. do and shall (b) after the dece of the survor of them the sd (I H) and (I W) his intended wife by mtge or sale or or. disposition of all or any of the sd manors, &c. and preses comprised in the sd term of £ — or any pt or pts thereof or all or any pt of the sd term or by and out of the rents issues and prfts thof or by all or any of the sd ways and means as they the sd I K and L M and the survor, &c. shall think reasonable levy and raise such sum and sums for the portion or portions of all and evy such child or chn of the sd (I H) by the sd (I W) (except an eldest (a) or only son) as are hnafr-mentd i. e. if there shall be but one such child beside an eldest or only son then the sum of £ — for the portion of such younger child be the same a daur or younger son to be pd and paye at such time and in such manner after the dece of the survor of them the sd (I H) and (I W) his intended wife as the sd (I H) by any deed or

Freeholds.

To raise money for payment of arrears.

To raise portions for younger children.

If only one younger child.

- (a) As to elder and younger children, see Pref. § 5.
- (b) If the limitation be to the life of the husband only, then, omitting throughout all mention of the decease of the wife, say, 'either in the lifetime of the sd (I H) with his consent in writing or else not until after his dece (but subject and without prejudice to the raising and paying the sd yrly rent-charge or sum of £ — to the sd (I W) for her life and to such powers and remedies for recovering the same as afd.)'

Freeholds. instrument in writing to be sealed and delivered in the presence of two or more credible witnesses shall direct (a) or appt and in deft of such direction or apptmt the same to vest in such child being a younger son at the age of 21 yrs or being a daur at her age of 21 yrs or day of marre (with the consent of the sd (I H) or the sd (I W) or the guardians or trustees *as the case may be*) which shall first happen and to be pd and paye to him or her at the same age or time provided the same do not happen until after the dece of the sd (I H) and (I W) his intended wife but if the same shall happen in the lifetime of the sd (I H) and (I W) or the survor of them then the portion of such younger child to be postponed until the dece of the (b) survor of them the sd (I H) and (I W) his, &c. unless they jtly during their jt lives or the survor of them after the dece of the or. of them shall signify their his or her consent in writing under their his or her hand or hands that the same shall be sooner raised (c) And if there shall be more such chn than one besides an eldest or only son then upon this furr trust that they the sd I K and L M and the survor, &c. do and shall after the dece of the survor of them the sd (I H) and (I W) his intended wife by such ways and means as are hnbeffe-mentd levy and raise for the portions of such sevl chn except an eldest or only son the like sum of £ — to go and be shared and allotted to or betn or among any such chn not being an eldest or only son or to be shared or divided among them all (except such eldest or only son) or to his her or their issue (d) in such pts shares and proportions and in such manner and form and to be pd at such days and times after the dece of the survor of them the sd (I H) and (I W) and subject to with and under such provos condons limitons (such limitations over to be for the bent of some or one of them) as the sd (I H) by any deed or deeds instrument or instruments in writing to be by him signed sealed and delivered in the presence of two or more credible witnesses or by his last will and testament in writing to be by him signed and published in the presence of three or more credible witnesses shall direct or appt and for want of such direction or apptmt to go to and be shared and divided betn or among all such chn (except an eldest or only son) in equal pts

If more
than one
younger
child.

As husband
shall ap-
point.

- (a) As to illusory appointments, see *Appointments*, Pref. § 5.
- (b) As to postponing the payment of portions, § 5.
- (c) If the appointment be limited to the husband, then say, 'until the dece of the sd I H) unless he shall signify his consent, &c.' as above.
- (d) As to extending the power of appointment to grandchildren, see § 5.

shares and proportions share and share alike to be and become a vested interest or interests and to be paid and paye to them resply at the ages and times following that is to say the share or shares of such of them as shall be a son at the age of 21 yrs and being a daur at that age or the day of marre (with the consent of the sd (I H) or the sd (I W) or the guardian, &c. for the time being) which shall first happen in case the same shall take place after the dece of the survor of them the sd (I H) and (I W) but in case any such child being a son shall attain his age of 21 yrs or being a daur shall attain that age or be married in the lifetime of the sd (I H) and (I W) or the survor of them then the payment of his her or their share or shares shall be postponed (a) until after the dece of them the sd (I H) and (I W) unless they jly during their lives or the survor of them shall by writing, &c. signify a desire that the same shall be sooner raised *Provided always* (b) that notwithstanding the postponing of the payment of such portion and portions until after the dece of the sd (I H) and (I W) his intended wife All and evy such portions shall be considered as vested interests in such of the sd younger sons as shall attain the age of 21 yrs and in such of the sd daurs as shall attain that age or be married in the lifetime of them the sd (I H) and (I W) his intended wife or the survor of them *Provided always* and it is hby decl'd and agrd that if any one or more of such younger children being a son shall depart this life before he shall attain the age of 21 yrs or become an eldest son or being a daur shall depart this life before she shall attain that age or be married then and in such case (no direction or apptmt having been made or given by the sd (I H) to the contrary) as well the original share of every such son so dying or becoming an eldest son and of every such daur so dying under the age of 21 yrs witht being married or so much thof as shall not have been advanced for him her or them as also (b) such pts or shares as by virtue of this present clause shall have accrued unto the sons or daurs last-mentd shall go and belong to the survors or survor of them and the same shall be paid and paye at such days and times and shall go in the same manner to such survors or survor as his her or their original share or shares [Provided always and it is hby decl'd and agrd by and betn the pties hereto that in case any apptmt shall be made by the sd (I H) in pursuance of the power hnbe

Freeholds.

Postponing payments.

Portions to be vested at 21.

Clause of survivorship.

Proviso for bringing shares into botchpot.

- (a) As to this clause, and the vesting of interests, see Pref. § 5.
 (b) As to the necessity of including the accruing shares in the clause of survivorship, see Pref. § 5.

Freeholds. contd for that purpe in favour of any one or more of such chn no such child who shall take any pt or share of the sd sums directed to be raised for his or her portions under or by virtue of such apptmt shall be entitled to any furr or or, pt or share of or in the sd mos until he she or they shall have brought the sum so appointed to him her or them into hotchpot for the bent of the ors of the sd chn for whom a portion is hby intended or directed to be raised] *And upon this furr Trust* That they the sd I K and L M and the survor of them, &c. do and shall after the dece of the survor of them the sd (I H) and (I W) his intended wife levy and raise by all and any of the ways and means afd for the maintenance (a) and education of all or any of such child or chn for whom a portion or portions shall is or are intended to be provided as afd until his her or their respive portions shall become paye such yrly sum or sums of money as will be equivalent to the int of his her or their portion or portions after the rate of £ — for every £ 100 by the year the sd yrly sums for maintenance and education to be pd quarterly at the four days of payment hnbefe mentd in evy yr by even and equal portions the first paymt thereof to be made on such of the sd days as shall first happen after the death of the survor of them the sd (I H) and (I W) his intended wife *Provided* (a) always and it is hby agrd and decld by and betn the parties hereto that it shall and may be lful for the sd I K and L M and the survor, &c. at any time or times after the dece of the sd (I H) by and with the consent of the sd (I W) if she shall be living and if she shall be dead of their own proper authty and as they shall see occasion to levy and raise by such ways and means as are hnbefe mentd but subject and witht prejudice to the sd clear annual rent-charge or yrly sum of £ — hnbefe limited to the sd (I W) and her ass for her life as afd and to the powers and remedies hnbefe given and provided for enforcing paymt of the same any sum or sums of money in pt of the portion or portions hnbefe provided for the younger chln of the sd (I H) by the sd (I W) not exceeding in the whole for any one such child one moiety or equal half part or share of his or their expectant or vested portion or portions for the better placing out or advancing in marre of every or any such child or chn for whose bent such sum and sums of money shall be raised and to charge the sd preses with such int for such sum or sums of money so raised as such trustees or trustee for the time

Provision
for mainte-
nance, &c.
of younger
children.

Power to
raise money
for ad-
vancement.

To raise
money for
the ad-
vancement
of younger
children.

(a) As to the necessity of expressly giving this power, see Pref. § 5.

being shall think proper so as such sum and sums of money shall go and be considered and taken as pt of the portion and portions hby provided for such child or chn for whose bent the same shall be raised [*Provided always* that no sale or mtge shall be made for raising any such portion or portions as afd for such younger son or sons daur or daurs to be begotten as afd until some or one of the same portion or portions shall become paye or the trustees or trustee for the time being shall have power to raise pt thereof as afd and that after the sd clear annual rent or yrly sum of £ — and the maintenance and int shall be pd the residue and overplus of the sd rents and prfts of the sd preses (if any there be) shall until a mtge or sale shall be made of the same. preses be had and recd by the psn and psns resply who for the time being shall be next entitled to the residue or remr of the preses expectant on the sd term of 1000 yrs to and for his and her or their own use and bent] *Provided always* that if the sd (I H) shall give to any of his sd daurs or younger sons any sums of money for or towards his or their portions or advancement in the world and by writing under his hand and seal or by his last will shall declare the same to be for or towards the portions hby provided that then and in such case such daur or daurs or younger son or sons to whom such sum or sums of money shall be given and advanced shall have and rece only so much of such furr portion or portions by virtue of these prests as togr with the sd sum or sums of money so given and advanced by the sd (I H) in his lifetime shall complete and make up the portion or portions hby provided or intended for him her or them resply and no more *Provided always* and it is hby decl'd and agrd to be the true intent and meaning of these prests and of the pties hereunto that from and after all and evy of the trusts decl'd as afd of and concerning the sd term of 1000 yrs shall in all things be fully performed and satisfied or shall be discharged either by becoming unnecessary or incapable of being performed or by any or. means according to the true intent and meaning of these prests the trustees' chas in the exon of the sevl trusts relating to the sd term of 1000 yrs and all arrears of the sd rent-charge or sum of £ — and of such yrly sums directed to be raised for maintenance as afd being first pd satisfied and discharged the sd term of 1000 yrs of and in the sd manors, &c. and preses therein comprised or of and in so much of the same as shall remain unsold or undisposed of for any of the purps as afd shall cease determine and be void to all intents and purps any thing herein contd

Freeholds.

Proviso as to time of sale or mortgage.

Money advanced by the father to be in part of portions.

Cesser of term of 1000 years.

Freeholds. to the contrary in any wise notwithstanding And the sd (I H) for himself his hrs, &c. doth hby covt, &c. with and to the sd I K and L M their exs, &c. that in case any sum or sums of money shall after the dece of the sd (I H) and in the lifetime of the sd (I W) be raised by mtge of all or any of the preses comprised in the sd term of 1000 yrs in pt of the portion or portions of a younger child or younger chiln of the sd intended marre in pursuance of the power hnbefe contd for that purpe Then and in such case the hrs exs or ads of the sd (I H) shall and will from time to time during the life of the sd (I W) well and truly pay and keep down so much of the interest of the sd sum or sums of money as the clear rents and prfts of the sd preses comprised in the sd term after payment of the sd annual sum or yrly rent-charge of £ — and all exps relating thereto shall not extend to pay *Provided always* and it is hby decld and agrd by and betn the pties hereto that it shall and may be lful for the sd (I H) during his life and for the sd (I W) during her life if she shall survive him and after the dece of both of them the sd (I H) and (I W) to and for the sd A B and C D or the survor, &c. during the minority of the psn for the time being entitled in posson to the heredit and preses hby granted and reld by indre to demise or lease all and evy or any of the sd manors and preses mentd to be hby granted and reld as afd to any psn or psns for any term or number of yrs not exceeding 21 yrs in posson and not in revn or by way of future int so as upon evy such lease there be reserved and made paye during the continuance thereof and to be incident to and go along with the revn expectant on the same the best and most improved rent and rents that can be reasonably had and obtained for the same witht taking any fine or foregift or or. matter or thing in the nature of a fine and so as none of the lessees to whom such leases shall be made be by any clause or words therein contd freed from impeachment of or made dispunishable for waste and so as in evy such lease there be contd a clause of re-entry in case the rent and rents thereupon to be reserved be behind or unpd by the space of 21 days and so as the lessee or lessees to whom such lease or leases shall be made as afd doth and do seal and deliver a counterpt or counterpts of such lease or leases *Provided also* and it is hby furr decld and agrd by and betn the pties to these prests that it shall and may be lful to and for the sd A B and C D and the survor, &c. at any time or times hereafter during the life of the sd (I H) with the consent of the sd (I H) and (I W) or the survor of

Covenant by husband to keep down interest on monies raised by mortgage.

Power to lease.

Powers of sale and exchange.

them such consent and approbation to be testified in writing under the hands and seals of the sd (I H) and (I W) and to be attested by two or more credible witnesses to make sale or to convey in exchange for or in lieu of or. lds tents or heredit of equal or better value all or any of the sd manors, &c. and preses hnbefe mentd to be hby granted and reld as afd or any pt thof and the fee-simple and inhance thereof to any psn or psns whomsr either togr or in pcls for such price or prices or for such or. equivalent in lds or tents as shall seem reasonable (a) And (b) for the purpose of effectuating such dispositions and conveyances (but not for any or. purpose) it shall and may be lful for the sd A B and C D and the survor, &c. at such request and by such direction so testified as afd by any deed, &c. or instrument, &c. in writing sealed and delivered by them or him in the presence of and attested by two or more credible witnesses absolutely to revoke determine and make void all and evy or any of the uses trusts powers and provos hnbefe limited expsd and declod of and concerning the sd preses or any of them or any pt thereof and by the same or any or. deed or instrument sealed delivered and attested as afd to limit declare direct or appt any new or or. uses estes or trusts of and concerning the sd heredit and preses which shall be thought necessary and expedient for the purpose of effectuating such sales exchanges dispositions and conveyance And also that upon such exchange (c) as afd that it shall be lful for the sd (T) and the survor, &c. to give or rece any sum or sums of money for equality of exchange (c) And also upon paymt of the money arising by the sale (d) of any pt or pts of the sd preses or to be received by way of equality of exchange (e) to sign and give proper rects for the same which rects shall be sufficient discharge to any or. psn or psns for so much of the money as shall be therein ackngd or expsd to be recd and such psn or psns shall not aftwds be answerable for any loss misapplication or non-application of such money or any pt thof And when any of the sd preses

Freeholds.

Trustees' receipts to be sufficient discharge.

(a) If the lands be made partible, (see § 5) say, 'or to join and concur with the psn or psns seised of or entitled for the time being to the heredit and preses in making a partition of the entirety of the sd heredit and preses or any pt or pcl thereof' If there be copyholds, add, 'or to enfranchise any copyhold or customary messes lds and herodts holden of any of the sd manors hby granted and reld or expsd or intended so to be or any pt thereof.'

(b) As to a general power of revocation, see § 5.

(c) 'Or partition.'

(d) If there be copyholds, say, 'or enfranchisement.'

(e) 'Or partition.'

Freeholds. shall be sold (a) for a valuable conson in money and such proper rectx shall be signed and given for the purchase money as afd *And also* when any of the sd preses shall be disposed of or conveyed in exchange for or in lieu of such or. lds and tents or heredts as afd (b) and the fee-simple and inheritance of such last-mentd lds tents and heredts shall be well vested in them the sd A B and C D or the survor, &c. *All* and evy of the sd manors, &c. and preses so sold and conveyed or such as shall be sold or conveyed shall be and remain for ever and from thenceforth freed and absolutely discharged of and from all and evy the uses estates trusts limitous powers provos and appts in and by these prests limited expsd and decld *And* then and from thenceforth these prests and the grant and release hnbefe contd shall be and enure resply as to so much of the sd preses hby granted and reld as shall be resply sold and conveyed as afd *To the use* and behoof of such purchaser or purchasers and his and their hrs and ass resply for ever subject only to such lease and leases as shall have been made pursuant to the power hnbefe contd on that behalf *Provided nevs* that when any of the sd preses hby made saleable as afd shall be sold (c) as afd or any money shall be so received for equality of exchange (d) all and evy the sum and sums of money which shall arise from such sales (e) and exchanges (f) shall with all convenient speed be laid out and invested by them the sd A B and C D or the survor, &c. by and with the consent and approbation of the sd (I H) and (I W) or the survor of them testified as afd in the purchase or purchases of freehd lds tents or heredts free from all incumbs to be situate somewhere in that pt of Gt Britain called England of a clear and indefeasible este of inhance in fee-simple of as good value in all respects as the manors, &c. and preses hnbefe made saleable or such of them as shall be so sold and as well the lds tents and heredts so to be purchased as all and evy the lds tents and heredts which shall be vested in the sd A B and C D or in the survor, &c. in exchange for or in lieu of all or any of the sd manors, &c. and preses mentd to be hby granted and reld as afd (g) shall

Purchase money to be laid out in other lands, &c.

- (a) If there be copyholds, say, 'or so enfranchised as afd.'
- (b) 'Or shall be divided or allotted by way of partition.'
- (c) If the lands be copyhold, say, 'or any such copyhold or customary messes lands or tents shall be so enfranchised as afd.'
- (d) 'Or of partition.'
- (e) 'Enfranchisements.'
- (f) 'Or partitions.'
- (g) If there be a partition, say, 'And all the heredts which shall be recd in lieu of or as a specific allotment for any pt of the heredts hby made partible.'

be resply settled and conveyed by the sd A B and C D *Freeholds.* and the survor of them, &c. to such and the same uses and upon such and the same trusts and for such and the same intents and purps and chagd and chargeable in the same manner and by with and under the same powers provos declons and agrts as are hnbeft expssd and decld of and concerning the same manors, &c. and preses (a) hnbeft mentd to be hby grauted and reld as afd or as near thereto as the death of pties and or. contingencies will then admit of *And* it is hby agrd and decld that until the money arising by such sale or sales as afd shall be invested in a purchase or purchases in the manner hnbeft directed it shall and may be lful for the sd A B and C D and the survor, &c. by and with the consent and approbation of the sd (I H) and (I W) testified as afd in case they or either of them shall be then living and if they shall be both dead then with the proper authty of the trustees or trustee for the time being to place out such money at int or in government or real secties and also from time to time with such consent and approbation as afd or of their own proper authty as the case shall happen to alter (b) and transpose such secties and funds when and so often as to the sd trustees or trustee for the time being shall seem meet and the divds int annual prfts and proceeds which shall from time to time arise by or in respect of such money so to be invested in such funds and secties or by or in respect of any or. sum or sums of money which shall come to the hands of the sd trustees or any of them by any alteration or transposition of such secties or funds as afd shall go and be paye and pd to such psn or psns and be applied to and for such uses intents and purps and in such manner as the rents and prfts of the lds and tents to be purchased therewith would go and be paye or applicable in case such purchase or purchases was or were actually made *Provided always* and it is hby agrd and decld by and betn the pties to these prests that if the sd trustees or any future trustee to be apptd in the place or stead of any of them as hnaft is mentd during the continuance of the afd trusts shall happen to die or desire to be discharged of and from the sd trusts or refuse or become incapable to act in the execution of the same in such case and when and so often as the same shall happen it shall and may be lful to and for the sd trustees or the survor, &c. with the consent and approbation of the sd (I H) and (I W) his, &c. or the sur-
Until purchases, money to be invested.
To alter securities.
To appoint new trustees.

(a) If the lands be partible, say, 'so hby made partible as afd.'

(b) As to this power, see Pref. § 5.

Freeholds. vor of them testified by some writing signed with his her or their hands and after the dece of such survor of his or their own proper authty by any deed or writing under their hands and seals attested by two credible witaesses to nominate and appt any or. psn or psns to be a trustee or trustees for the purps afd in the stead or place of the trustee or trustees so dying desiring to be discharged or refusing to act as afd And when and so often as any new trustee or trustees shall be nominated and appted as afd all the trust estes mos and preses which shall be then vested in the trustee or trustees so dying, &c. shall be thereupon conveyed and assigned and transferred in such sort and manner and so as that the same shall and may be lfully and effectually vested in the surviving or continuing trustees and such new or or. trustee or trustees upon the same trusts and for the same intents and purps as are hnbefe expsed and decld of and concerning the same resply And that all and evy such trustee or trustees shall and may in all things act and assist in the exon of the sd trusts as fully and effectually as if he or they had been originally appted a trustee or trustees by these prests *Provided always* and it is hby decld and agrd by and betn the pties to these prests that the sd A B and C D and such new trustee or trustees as afd and the heirs exs ads and ass of them and each of them shall be charged and chargeable resply only for such mos as they shall actually receive by virtue of the trusts hby in them reposed notwithstanding his or their giving or signing any rects for the sake of conformity And any one or more of them shall not be answerable or accountable for the or. or ors of them or for the acts rects neglects or defts of the or. or ors of them but each and evy. of them only for his and their own acts rects neglects and defts resply And that any one or more of them shall not be answerable or accountable for any banker goldsmith broker or or. psn with whom or in whose hands any pt of the trust mos shall or may be deposited or lodged for safe custody or orwise in the exon of the trusts hnbefe mentd and that they or any of them shall not be answerable or accountable for the insufficiency or deficiency of any secties stocks or funds in or upon which the sd trust mos or any pt thof shall be placed out or invested nor for any or. loss misfortune or damage which may happen in the exon of any of the afd trusts or in relation thereto unless the same shall happen by or through their own wilful defaults resply And also that they the sd trustees and each and evy of them and the exs ads and ass of them and each and evy of them shall and

Clause of
indemnity
to trustees.

may (a) by and out of such mos as shall come to their respite hands by virtue of the trusts afd retain to and reimburse himself and themselves resply and also pay and allow to his and their co-trustee or co-trustees all costs chas dams and exps which they or any of them shall or may suffer sustain expend disburse be at or be put unto in the exon of the afd trusts or in relation thereto *And* the sd (I H) for himself his hrs exs and ads doth hby covt promise and agree with the sd A B and C D their hrs and ass by these prests in manner following that is to say That for and notwithstanding any act deed matter or thing whater made done committed exted or suffered by the sd (I H) or any of his ancestors [*or the sd (devisor) or (last purchaser) as the case may be, see Purchase Deeds, Pref. § 8*] he the sd (I H) at the time of the sealing and delivery of these prests is lfully rightfully and absolutely seised of or orwise well and sufficiently entitled to the sd manors messes and hereds hby granted and reld or orwise assured or intended so to be and of and to evy of them and evy pt and pcl thereof with their and evy of their rights members and apts for a pure perfect absolute and indefeasible este of inhance in fee-simple witht any condon contingency proviso power of limitation of any new or or. use or uses or any or. restraint matter or thing whater to alter change charge defeat determine or make void the same *And also* that for and notwithstanding such act deed matter or thing as afd he the sd (I H) hath in himself good right full power and lful and absolute authty to grant bargain sell and rele all and singr the messes manors hereds and preses hby mentd to be granted and reld with their and evy of their rights members and apts unto the sd A B and C D and their hrs to the uses upon the trusts to and for the intents and purps and under and subject to the powers provos agrts and declons hnbefe limited expssd or decld of and concerning the same in the manner and form afd and according to the true intent and meaning of these prests *And furr* that the sd manors messe lds and hereds hby granted and reld or orwise assured or intended so to be and evy of them and evy pt and pcl thereof with their and evy of their rights members and apts shall and lfully may from time to time and at all times hrafr remain continue and be to the uses upon and for the trusts intents and purps hnbefe limited expssd and decld of and concerning the same and shall and may be

Freeholds.

To reimburse themselves.

Covenants for title from husband.

Rightfully seised.

Good right to convey.

Quiet enjoyment.

(a) Or, 'It shall, &c. be lful to and for the sd trustees, &c. by and out of, &c. by virtue of, &c. to retain to, &c. as above.'

Freeholds. peaceably and quietly had held and enjoyed and the rents and prfts thereof recd and taken accordingly witht any let suit trouble denial eviction ejection disturbance molestation hindrance interruption claim or demand whatsr of from or by the sd (*I H*) or his hrs or any or. psn or psns claiming or to claim by from through under or in trust for them or any of them or any of his ancestors *And that* free and clear and freely clearly and absolutely acquitted exonerated and discharged or orwise by him the sd (*I H*) his hrs exs or ads well and sufficiently saved defended kept harmless and indemnified of from and agst all former and or. gifts grants bargains sales leases mtges jointures dowers right and title of dower uses trusts wills entails statutes recognizances judgmts extents exons rents arrears of rent annities debts legacies sum and sums of money estes tail and or. titles troubles chas and incumbs whatsr made done or committed by the sd (*I H*) his hrs or ancestors or any psn or psns claiming or to claim by from or under them or any of them *And moreover* that he the sd (*I H*) and his hrs and every or. psn having or lfully or equitably claiming or who or shall or may at any time or times hrafr have or lfully or equitably claim any este right title or int whatsr in to or out of the manors messes lds and heredit hby granted or reld or expsd or intended so to be or in to or out of any of them or any pt or pcl thereof by from under or in trust for him or any of his ancestors shall and will from time to time and at all times after the solemnization of the sd intended marre upon every reasone request to be made for that purpe by the sd (*T*) or the survor, &c. but at the costs and chas of the psn or psns requiring the same make do acknge and exte or cause to be made, &c. all and evy such furr and or. lful and reasonable acts deeds things devices conveyances and assurances in the law whatsr for the furr better more perfectly and absolutely granting releasing conveying and assuring the manors, &c. hby granted and reld or expsd or intended so to be and every of them and every pt and pcl thereof with their and evy of their rights members and apts to the uses upon and for the trusts intents and purps and with under and subject to the powers provos agrts and declons hnbeft limited expsd or decld of or concerning the same or such of them as shall be then subsisting undetermined or capable of taking effect as by the sd (*T*) or the survor of them or his hrs or any of the pties interested in the preses or their or any of their counsel in the law shall be reasonably devised or advised and required so

Further
assurance.

that such furr assurance or assurances contain or imply in them no furr or or. covt or warranty than agst the psn or psns who shall be required to make or exte the same his her or their hrs exs ads acts and deeds only and so that the pty or pties who shall be required to make or exte such furr assurance or assurances be not compelled nor compellable for the making or doing thereof to go or travel from his her or their dwelling or respive dwellings or usual place or places of abode *In Witness, &c.*

*Freeholds
and
Copyholds*

Settlement of Freehold and Copyhold Estates, where the chief of the Property belongs to the intended Wife.

This Indre made, &c. Betn (IH) of, &c. of the first pt (IW) of, &c. spinster of the second pt and (trustees) trustees nominated by and on behalf of the sd (IW) of the third pt Whas the sd (IW) is seised of or orwise entitled to sevl freehold and copyhold estes under and by virtue of certain indres and bearg date, &c. and made or mentd to be made betn, &c. And whas (recite treaty of marre) And upon the treaty for the sd marre it was agrd that the sd messes or tents and hereditis shd be conveyed surrendered and assured in the manner upon the trusts and for the intents and purps hinaft mentd And that in conson of such settlement she the sd (IW) should relinquish in manner hnaft mentd all the right and title which in consequence of her marre with the sd (IH) she would orwise have or derive to dower freebench or thirds out of the real estes of the sd (IH) Now this Indre Witnesseth That in pursuance of the sd agrt and in conson of the sd intended marre and also of 10s. to the sd (IW) by the sd (T) in, &c. pd the rect, &c. she the sd (IW) with the consent and approbation of the sd (IH) testified by his being a pty hereto and exting these prests Hath granted bargd sold and reld and by, &c. Doth, &c. unto the sd (T) (in their actual posson, &c.) and their hrs All those, &c. And all outhouses, &c. And the revn, &c. And all the este, &c. of her the sd (IW) of into or out of the same preses and evy or any pt or pcl thereof To Have, &c. the sd inesses, &c. and all, &c. the preses hinbefe mentd to be granted and reld unto the sd (T) their hrs and ass for ever upon the sevl trusts and to and for the sevl uses intents and purps and with under and subject to the sevl powers provos declons and agrts hnaft expssd and decld of and concerning the same that is to say To the use of the sd (IW) and her hrs until the sd intended marriage shall be had and solemnized aud from and after the solemnization thereof To

*Recital of
seisin of
intended
wife, &c.*

Testatun.

*Habendum
to trustees.*

*To intended
wife until
marriage.*

Freeholds and Copyholds *the use of the sd (IW) for and during the term of her natural life to and for her own sole and separate use and bent or to the use of such psn or psns as she the sd (IW) by any writing under her hand shall at any time notwithstanding her coverture direct or appt and in deft of such direction or appt then in trust to pay the rents issues and prfts of the sd hereds and preses into the proper hands of the sd (IW) for and during her life to and for the sole separate and particular use and bent and at the sole and uncontrolled disposal of the sd (IW) notwithstanding her sd intended coverture and without the same being subject to the debts or engagements of the sd (IH) and the refts of the sd (IW) alone notwithstanding her coverture shall be a good and sufficient discharge for so much of the sd rents and prfts as shall be therein ackngd and expsd to be recd and from and after the dece of the sd (IW) then to the use of all and evy the child and chiln of the sd (IW) by the sd (IH) for such estes and ints and in such shares and proportions and to be vested in him her or them at such respive ages or times and in such manner as the sd (IW) alone and notwithstanding her coverture by any deed or instrmt in writing to be sealed and delivered by her in the presence of and attested by two credible witnesses or by her last will and testmt in writing or any writing in the nature of her last will and testament to be signed and published by her in the presence of three or more credible witnesses shall direct or appt and in deft of such direction or apptmt or so far as the same shall not extend To the use of all and evy the child and chiln of the body of the sd (IW) by the sd (IH) to be begotten equally to be divided betn or amongst them if more than one share and share alike as tents in common and not as jt tenants and of the sevl and respive hrs of the body and bodies of all such chiln and if but one then to the use of such one child and the hrs of his or her body And if there shall be a failure of issue of any such child or chiln then as to the original pt or share pts or shares of such child or chiln whose issue shall so fail and also as to such pt or share pts or shares as shall by virtue of this present clause or limiton have become vested or accrued unto the sd chiln then to the use of the survors equally to be divided betn or amongst them if more than one share and share alike*

To her separate use after marriage; *And for deft of such issue to the use of such psn or psns as the sd (IW) notwithstanding her coverture by any deed, &c. shall direct or appt And in deft of such apptmt, &c. to the use of the sd (IW) her hrs and ass for ever And this Indre furr Witnesseth That in furr pursuance, &c. and in conson of the preses she the sd*

and to such children of the marriage as she shall appoint.

And in default of appointment to all the children as tenants in common.

Clause of survivorship.

In default of issue to such uses as wife shall direct.

Further testatum.

(*I W*) doth hby for herself, &c. with the consent, &c. testified as afd covt, &c. with and to the sd (*T*) that she the sd (*I W*) or her hrs and all or, necessary pties shall and will at the next general customary court or in the mean time at some special court which shall be holden in and for the sd manor of F in the co. of at her or their own costs or chas duly surrender into the hands of the lord or lady of the sd manor for the time being and according to the custom thereof *All those* customary, &c. And the revn, &c. And all the este, &c. unto the sd (*T*) their hrs and ass for ever Upon such trusts nevas as will best and nearest correspond according to the rules of law and equity with the sevl uses and trusts hnbefore limited expsd and decl'd of and concerning the sd freehds hnbefore granted and reld and for such intents and purps and with under and subject to such and the like powers provos agrts and declons as are hnbefore mentd and expsd of and concerning the same And the sd (*I W*) doth hby covt, &c. with, &c. the sd (*T*) that from and immly after the solemnization of the sd intended marre and until the sd surrender or surrenders so covenanted to be made she the sd (*I W*) and her hrs shall and will stand and be possessed of and interested in the sd messes or tents hereds and preses upon such and the same trusts and with under and subject to such and the like powers provos declons and agrts as are hnbefore expsd and decl'd of and concerning the sd freehold hereds and preses or as near thereto as may be And the sd (*I H*) doth hby for himself, &c. covt, &c. with and to the sd (*T*) that if at any time during the sd intended coverture any real este whatsr shall descend or devolve to or vest in the sd (*I W*) or in any psn or psns in trust for her or to or in the sd (*I H*) in her right then and in that case and so often as the same shall happen he the sd (*I H*) shall and will at the costs and chas of the sd (*I W*) make do and exte or cause, &c. or join or concur with the sd (*I W*) her hrs exs, &c. in the making doing and exting of all such acts deeds conveyances assignments and assurances in the law whatsr as shall be necessary and proper for conveying surrendering assigning assuring and confirming the sd real este in such manner as that the same may be vested in the sd (*T*) their hrs, &c. and for and upon such and the same trusts, &c. (as above) And the sd (*I W*) doth hereby for herself, &c. covt, &c. with and to the sd (*I H*) his hrs, &c. and the sd (*T*) and their hrs, &c. that the settlmt hnbefore contd and made of the real property of the sd (*I W*) shall be and the sd (*I W*) doth hby accordingly accept the same for her jointure and in lieu and bar and full satisfaction of the dower-

*Freeholds
and
Copyholds*

Covenant
by wife to
surrender
copyholds.

Covenant
by husband
as to future
property of
wife.

Covenant
by wife that
she will ac-
cept settle-
ment in bar
of dower.

Freeholds thirds and freebench and evy or. este or right which at
and common law or by custom she might be entitled to or
Copyholds might claim from the real este of the sd (*I H*)

Another, to Uses for the Benefit of Husband and Wife.

To the use of the sd (*I W*) (*a*) until the sd intended marre shall be had and solemnized And from and immly after the solemnization thereof to the use of the sd (*T*) and their heirs But nevss upon the trusts and for the intents and purps hnaft expsd and decld that is to say *To the Use* of the sd (*I H*) and his ass for and during the term of his natl life witht impeachment of waste and from and immly after the dece of the sd (*I H*) in case the sd (*I W*) shall happen to survive him to the use of the sd (*I W*) during the term of her natl life witht impeachment of waste and from and after the determination of the sevl estes so limited to the sd (*I H*) and (*I W*) resply as afd *To the use* of the sd (*trustees*) and their hrs during the natl lives of the sd (*I H*) and (*I W*) and the life of the longest liver of them upon trust to preserve contingent remrs hinaft limited from being defeated or destroyed and for that purpe to make entries, &c. (see *Gen. Prec.*) But nevss to permit the sd (*I H*) and his ass during his life and after his dece the sd (*I W*) and her ass during her life if she shall survive the sd (*I H*) to rece and take the rents issues and prfts of all and singr the sd hereds and preses hby granted and reld or intended so to be and evy pt and pcl thof to and for his her and their own use resply And from and after the sevl deces of the sd (*I H*) and (*I W*) and the dece of the survor of them *To the Use* of all and evy the child and chn of the body of the sd (*I W*) by the sd (*I H*) to be begotten and if more than one for such este and estes in such pts shares and proportions manner and form and subject to such condons provos restrictions and limitations and with such remrs over as the sd (*I H*) and (*I W*) at any time or times hraft during their jt lives by any deed or deeds instrmt or instrmts to be by them sealed and delivered in the presence of and attested by two or more credible witnesses with or witht power of revocation shall limit direct or appt And in deft of such jt apptmt or as far as the same shall not extend for such estes, &c. as the survor of them the sd (*I H*) and (*I W*) by any deed, &c. to be sealed, &c. by him or her in the presence, &c. shall limit, &c. And in deft of such limitation direction or apptmt And so far as the same shall

Of wife for
her life.

To trustees
to preserve,
&c.

To the use
of such
children as
husband
and wife
shall ap-
point.

(a) Or, 'of the sd (*I H*),' if it be the property of the husband.

not extend *To the use* of all and evy the chn of the sd (*I W*) by the sd (*I H*) (*a*) who being a son or sons shall attain the age of 21 yrs or die under that age leaving issue living at his or their dece or respive deces or being a daur shall attain that age or marry which shall first happen And in case there shall be more than one such child and there shall be a failure of lful issue of the body or bodies of evy such child or chn then as to the original pt or share pts or shares as by virtue of this present clause shall have become vested or accrued unto the same child or chn or his her or their issue *To the use* of the or. or ors of the sd chn so remaining or surviving and the hrs of the body and respive bodies of such remaining or surviving chn equally to be divided betn such remaining or surviving chn share and share alike as tenants in common and not as jt tenants And if there be but one such remaining or surviving child then *To the use* of that one child and the hrs of his or her body And in deft of such issue then as to for and concerning one moiety (the whole into two parts to be divided) of the sd messes heredit and preses hby granted and reld or intended so to be *To the use* and behoof of the sd (*I H*) his hrs and ass for ever And as to for and concerning the or. undivided moiety or half pt of the sd heredit and preses *To the use* of the sd (*I W*) her hrs and ass *Provided always* and it is hby decl'd and agrd that from and after the dece of the survor of them the sd (*I H* and *I W*) and until the share or shares of such child or chn of or in the sd trust preses shall become a vested int or vested ints it shall be lful for the sd (*T*) and the survor, &c. to pay and apply so much of the rents issues prfts and annual proceeds of the sd freehd and copyhd heredit and preses hby granted reld or covenanted to be surrendered for and towards the maintenance education and advancement in the world of such child or chn or issue of the sd intended marre in such manner as the sd (*T*) or the survor, &c. shall in their and his discretion think fit *Provided always* and it is hby decl'd and agreed, &c. (powers of leasing, &c. also to appoint new trustees and indemnity to trustees and liberty to reimburse themselves, see *Gen. Prec.*) And the sd (*I W*) or the sd (*I H*) as the case may be doth hby for herself (or 'himself, &c.) her hrs, &c. covt, &c. with, &c. the sd (*T*) their hrs, &c. in manner following that is to say That for and notwithstanding any act, &c. made, &c. by her,

Freeholds
and
Copyholds

Clause of
survivor-
ship.

Main-
tenance,
&c. of
children.

Powers.

(a) For variations, where in default of appointment the trustees are to have the power of selling the real estates, and dividing the proceeds among the children of the marriage, see the *next precedent*.

Lease- &c. she the sd (*I W*) is lfully, &c. seised in her demesne
holds, &c. as of fee, &c. of, &c. all and singr the freehd messes, &c.
 hby granted, &c. as of in and for a good, &c. este of in-
 hance in fee simple in posson and also in like manner
 seised or orwise legally or equitably entitled unto the sd
 copyhold or customary messes lds, &c. hby covenanted to
 be surrendered as of, &c. a good, &c. este, &c. at the will
 of the lord according to the custom of the manor *And*
also that notwithstanding such act, &c. she hath good
 right, &c. to grant convey and surrender the sd heredit
 and preses hby granted and reld and covenanted to be
 surrendered and evy pt and pcl of the same with their
 rights, &c. *And furr* that all and singr the sd freehold
 and copyhd heredit and preses hby granted reld and
 covenanted to be surrendered shall be peaceably had,
 &c. And that free, &c. and freely, &c. acquitted, &c. or
 orwise at the expence of the sd (*I W*) her hrs, &c. saved,
 &c. and kept indemnnified of from, &c. all former and or.
 gifts, &c. and incumbs save and except the rents fines
 suits and services as afd *And moreover* that the sd (*I W*)
 her hrs, &c. and all or. persons having or claiming, &c.
 any este, &c. of and in, &c. the sd freehd and copyhd
 heredit shall, &c. at the proper costs and chas in all
 things of the sd (*I W*) her hrs and ass make, &c. all, &c.
 acts, &c. and assurances in the law whatsr for the further,
 &c. granting releasing surrendering confirming and as-
 suring the sd heredit and preses hby granted reld or
 orwise assured or intended so to be and covenanted to
 be surrendered and evy pt, &c. with the apt as, &c.

In Witness, &c.

*Settlement of Leaseholds and Personal Estate, the Pro-
 perty of the intended Husband and Wife.*

This Indre made, &c. Betn (*a*) (*I H*) of, &c. of the
 one pt (*I W*) of, &c. of the or. pt and (*trustees*) trustees
 named by and on behalf of the sd (*I H*) and (*I W*) of
 the third pt *Whas* (*b*) the sd (*I W*) as sole executrix and

Recitals.

(*a*) If the fathers join, say, 'Betn (*father of intended husband*)
 of, &c. and (*I H*) son of (*father*) of the first pt (*father of intended*
wife) of, &c. and (*intended wife*) daur of the sd (*F*) and spinster
 of the second pt and (*trustees*) trustees named by and on behalf of
 the sd (*I H*) and (*I W*) of the third pt'

(*b*) If the portion to be given with the intended wife be secured
 by the bond of the father, say, 'And whas upon the treaty for the
 sd intended marre it was also agreed beta (*F of I H*) and (*F of I W*)
 that (*F of I W*) should by bond secure unto (*F of I H*) the principal
 sum of £— to be pd at or before the expiration of six calr mths
 from the time of the solemnization of the sd intended marre with
 int for the same after the rate of £— for every 100*l.* from the
 time of such solemnization until the time of payment And should

residuary legatee named in the last will and testamt of A B of, &c. her late father decd is possessed of or entitled to the sum of £ — paye on the day of next by the

Lease-holds, &c.

office of upon a policy of assurance on the life of the sd A B and the sd (*I W*) as such residuary legatee as afd is also entitled to the sum of £ — stock shares in Compy (a) And also to jewellery plate and furniture

Policy of assurance.

And *whas* (recite lease (b) to the father of the intended husband and that the intended husband is entitled to it under the will of the father) And *whas* (contract for marre) And *whas* upon the treaty for the

Lease.

sd marre it was agrd that the policy of assurance and stock shares and also the jewels plate and other furniture and property of which the sd (*I W*) is now possessed and likewise the sd leasehold messes, &c. shall be settled and assured to for and upon the sevl trusts and subject to the sevl provos covts and agrts hnaft expssd mentd and contd concerning the same And *whas* in pursuance and pt performance of the sd agrt she the sd (*I W*) with the privity and approbation of the sd (*I H*) testified by his being a pty to and exting these prests hath transferred or caused to be transferred in the bks kept for that purpe by the sd Compy into the names of the sd (*T*) the sd sum of £ — to be held by them upon the trusts, &c. hnaft mentd Now this *Indre Witnesseth* That in pursuance and further performance of the afd agrt and in conson of the sd intended marre and the sum of 10s. to the sd (*I W*) by the sd (*T*) at, &c. pd the rect, &c. she the sd (*I W*) with the privity and approbation of the sd (*I H*) testified as afd *Hath* granted bargd sold assd transferred and set over and by, &c. *Doth*, &c. grant, &c. unto the sd (*T*) their exs ads or ass *All that* (c) the

Treaty.

by bond also secure to the sd (*F of I H*) the further principal sum of £ — to be pd in case the sd intended marre should take effect at or before the expiration of six calr mths after his decee with int for the same from the time of such decee until the paymt of the sd sum of £ — And *whas* (recite two several bonds given by the father of the intended wife)

Or thus, 'And *whas* by a bond or obligation in writing under the hand and seal of the sd (*F of I W*) bearing even date with these prests the sd (*F*) hath become bound unto the sd (*T*) in the penal sum of £ — with a condon for making void the same on paymt by the sd (*F*) unto the sd (*T*) their exs ads or ass in case the sd intended marre should take effect the sum of £ — with int for the same after the rate of, &c. in the mean time in case he should die within six calendar months next after his decee togr with int after the rate afd until paymt thereof'

(a) And also to several bonds, bills, and other securities for money.

(b) If it be a renewable lease, for variations, see vol. ii. p.

(c) If it be a legacy, say, '*All that* legacy or principal sum of £ — and all and singr or. the principal sum or sums of money to

<i>Lease-holds, &c.</i>	sd sum of £ — so paye by the sd office as hinbefo is mentd togr with the sd policy of assurance and the full bent thereof And all and evy sum and sums of money to be had and recd thby and all the right title int property claim and demand whatsr both at law and in equity of her the sd (<i>I W</i>) of in and to the same preses and evy pt thereof with full power and authty to ask demand sue for recover rece and give effectual rects and dischas for the same and evy pt thereof in the name of her the sd (<i>I W</i>)
<i>Habendum.</i>	<i>To Have</i> hold rece and take (a) the sd sum of £ — and all and singr or. the preses hby assnd or intended so to be Upon the trusts nevrs and for the intents and purps and with under and subject to the powers provos agrts and declons hnaft expsd and decld of and concerning the same that is to say <i>In Trust</i> for the sd (<i>I W</i>) her exs and ads in the mean time and until after the solemnization of the sd intended marre and from and after the solemnization thereof <i>in trust</i> that they the sd (<i>T</i>) do and shall call in and rece the sd sum of £ — when and so soon as the same shall become paye And also all and evy sum or sums which shall or may become due or paye under or by virtue of the sd policy of assurance And do and shall lay out and invest the same in their or his name or names in the purchase of a competent share or shares of any of the Parliamentary stocks or funds of Gt Britn and do and shall from time to time with the consent in writing of the sd (<i>I H</i>) and (<i>I W</i>) his intended wife during their jt lives alter vary and transpose the sd stocks funds and secties as to him and them shall seem expedient and do and shall stand possessed of and interested in all and singular the trust mos stocks and funds and the int income and proceeds thereof <i>in trust</i> to pay to or permit the sd (<i>I H</i>) and his ass to have and rece the same to and for his and their own use during the term of his natural life (b) and from and immly after the dece of him the sd (<i>I H</i>) (c) to pay to or permit the sd (<i>I W</i>) and her ass to have
<i>Declaration of trusts.</i>	
<i>To invest monies.</i>	
<i>To alter securities.</i>	
<i>In trust for husband and wife.</i>	

which she the sd (*I W*) is entitled under or by virtue of the will of the sd A B decd and all int henceforth to become due for or in respect of the same And all the right, &c.' *as above*.

If it be bonds or bills, say, 'All and evy the bonds bills notes or or. secties and the mos resply due thereon which she the sd (*I W*) is now possessed of or interested in or entitled unto togr with all vouchers and papers relating thereto *To Have* receive, &c.' *as above*.

(a) If it be bonds, &c. vary it accordingly.

(b) 'Or until he the sd (*I H*) shall be found and decld a bankrupt or shall become insolvent or make and enter into any composition with his crs or shall take the bent of any Act of Parlt made or to be made for the relief of insolvent debtors'

(c) 'Or or. sooner determination of the trust hnbeft decld for the bent of the sd (*I H*) in case the same shall happen during the jt lives of the sd (*I H*) and (*I W*)'

and rece the same to and for her and their own use and bent *And this Indre furr Witnesseth* That in conson of the sd intended marre and in furr performance of the sd agrt it is hly agrd and declbd by and betn the pties to these prests and the true intent and meaning of them and evy of them is that she the sd (*I W*) shall and may notwithstanding her coverture during her life have hold and freely wear use and enjoy to and for her own sole and separate use All and evy such gold silver plate jewels and or. ornaments of her person as she shall be possessed of at the time of the exon of these prests free from and absolutely independant of the control disposition or intermeddling of him the sd (*I H*) her intended husband *And this Indre furr Witnesseth* That in conson of the sd intended marre and for making a better provision for the sd (*I W*) in case the sd intended marre shall take effect and she shall survive the sd (*I H*) her intended husband and for making some provision for the issue of the sd intended marre He the sd (*I H*) *Hath* granted bargained sold assigned (a) transferred and set over and by these prests *Doth* grant, &c. unto the sd (*T*) their exs, &c. *All that* messe, &c. and all the sd pieces and pcls of ld comprised in and granted and demised by the sd in pt recited indre of lease And all the este, &c. of him the sd (*I H*) of in to or out of the same preses respily and evy of them *To Have and to Hold* the sd messe, &c. and all and singr or. the preses hby assd *To the use* of the sd (*T*) (b) their exs ads and ass from henceforth for and during all the remr of the sd term of 99 yrs which is now to come and unexpired in as full large ample and beneficial a manner to all intents and purps as the same preses were granted or demised in and by the sd in pt recited original indre of lease subject to the payment of the rent and the observance of the covts in and by the same indre of lease reserved and contd Upon the Trusts nevss and to and for the uses intents and purps and with under and subject to the powers provos declons and agrmts hraftu expsd and declbd of and concerning the same that is to say *upon trust* for the sd (*I H*) until after the solemnization of the sd intended marre And from and after the solemnization thereof *in trust* (c) for the sd (*I H*) and his ass to permit him and them to rece and take the rents issues and prfts

Lease-
holds, &c.

Further
testatum.

Wife to
have the
jewels, &c.

Further
testatum.

Habendum.

Declara-
tion of
trusts.

(a) If it be a leasehold for life or lives, see variations, *Mortgages*, vol. ii. p. 262.

(b) If it be a leasehold for lives, or for years determinable on lives, for variations, see *Mortgages*, vol. ii. p. 262.

(c) If it be a renewable leasehold, say, 'upon trust that they the sd (*T*) do and shall by and out of the rents and prfts of the sd messe or tent and preses so often as occasion shall require renew

Leaseholds, &c. thereof during the residue of the sd term of yrs if the sd (*I H*) shall so long live to and for his and their own bent And from and after the dece of the sd (*I H*) during the continuance of the sd term *in trust* for the sd (*I W*) if she shall survive the sd (*I H*) and her ass to rece and take the rents issues and prfts thereof during the residue of the sd term if the sd (*I W*) shall so long live And from and after the dece of the survor of them the sd (*I H*) and the sd (*I W*) *upon this further trust* that they the sd trustees and the survor, &c. do and shall absolutely sell the sd messe or tent and such of the personal este hby assigned or orwise assured or intended so to be as shall not consist of money by public auction or private contract in one lot or sevl lots for the best price or prices that can or may be gotten for the same and do and shall convey assign and assure the sd messe, &c. when sold unto and to the use of the purchaser or purchasers thereof or as he or they shall direct or appt And do and shall rece the purchase money for the sd messe, &c. and give rects for the same And do

In trust for husband for life.

For wife for life.

To sell.

To invest.

In trust for any appointment.

and shall lay out and invest such money in their and his names or name in the purchase of a competent share or shares of any of the Parliamentary stocks or public funds of Gt Britn or at int upon Govt or real secties in England or Wales And do and shall from time to time alter vary and transpose the sd stocks funds and secties as to them or him shall seem expedient and do and shall stand and be possessed of and interested in all and singr such trust mos stocks funds and secties and the int divds and annual produce of the same resply *In trust* for all and evy the child or chn of the sd intended marre or of the issue of such child or chn born in the lifetime of the sd (*I H*) and (*I W*) his intended wife or the survivor of them to go and be pd assd and transferred to such chn at such ages on such days and if more than one in such pts shares and proportions as the sd (*I H*) and (*I W*) his intended wife during their jt lives by any deed, &c. (see *Gen. Prec.*) shall direct or appt and in debt of such jt diron or apptmt then as the survor of them shall by any deed, &c. by him or her sealed, &c. direct or appt And in debt of such apptmt or so far as the same shall not extend *in trust* for all and evy the chn of the sd (*I H*) by the sd (*I W*) his, &c. (a) to be

the sd lease and shall from time to time make such surrenders of the same as shall be requisite for that purpe and by and out of the sd rents and prfts or by mtge of the sd preses or a competent pt thereof raise so much money as shall be sufficient for paying the fines and or. necessary chas and subject thereto do and shall stand possessed of and interested in the sd trust preses *in trust as above*

(a) For a more concise form of this limitation, see *next precedent*.

equally divided betn and among them if more than one share and share alike and if there shall be but one such child then the whole to be in trust for that one child the shares of such chn being sons to be pd assd or transferred to him or them as and when they shall attain their age of 21 resply and the shares of such of them as shall be daurs to be pd assd and transferred as they shall attain their ages of 21 or be married resply which shall first happen after the dece of the survor of them the sd (IH) and (IW) his intended wife But if any such child being a son shall attain his age of 21 yrs or being a daur shall attain that age or marry in the lifetime of the sd (IH) and (IW) or the survor of them the share of such child shall be pd assd and transferred to him or her immly after the death of the survor of them the sd (IH) and (IW) his intended wife *Provided always* and it is decl'd and agrd by and betn the pties hereto that notwithstanding the postponing the paymt assmt and transfer of the shares of such chn until after the dece of the survor of them the sd (IH) and (IW) his intended wife all and evy the af'd shares shall be and be deemed to be vested ints in such of the same chn as being sons shall attain the age of 21 yrs or die before that age leaving issue and as being daurs shall attain that age or marry in the lifetime of the survor of them the sd (IH) and (IW) his intended wife *Provided always* that if any such child being a son shall die witht leaving issue before he shall attain the age of 21 yrs or being a daur shall die before attaining that age witht having been married then the share or shares of him or her so dying or so much thereof as shall not have been disposed of and applied for his or her preferment or advancement under or by virtue of the provo hnaft'r cont'd shall from time to time go accrue and belong to the survor or survors of such chn and be pd assd or transferred to him her or them if more than one equally share and share alike at such times and in such manner as is hnbefe directed touching his her or their original share or shares And in the case of the death of any or. or ors. of such chn before he or she shall have attained such age or married as af'd then all and every such accruing share of the sd trust mos shall again from time to time be subject to such furr right chance contingency or condon of accruer or survivorship as is hnbefe decl'd of and concerning his her or their original share or shares (a) *Provided*

Lease-holds, &c.

Vested interests.

Clause of survivorship.

Proviso for maintenance.

(a) If it be so agreed, say, ' *Provided always* that if there shall be only two such chn as af'd or there being more than two such

*Lease-
holds, &c.*

For ad-
vancement.

also and it is hby decl'd, &c. that until the whole of the sd trust mos stocks funds and secties shall be or become vested in such child or chn or issue as afd they the sd (T) and survor, &c. do and shall pay apply the int divds and annual produce thereof unto and for the bent of all and every the child or chn of the sd intended marre or the issue as afd for the time being entitled for and towards their maintenance and education *Provided also* and it is hby decl'd, &c. that it shall and may be lful for the sd (T) and the survor in case there shall not be any direction or appointment as afd to the contrary to sell assign and transfer any pt not exceeding one moiety of the appointed expectant or apparent share or shares for the time of the sd chn of the sd (I H) by the sd (I W) as shall be a son or sons of or in the trust mos stocks funds and secties and to apply the mos to be produced by evy such sale or tranfer in the placing or putting him or them whose share or shares shall be so in pt sold or transferred in or towards any business profession or engagement or orwise for his preferment or advancement in the world notwithstanding his or their share or respive shares shall not then have become vested and paye *Provided always* and it is hby decl'd and agrd, &c. that if there shall not be any child or chn of the sd intended marre or being such if all of them shall die before any being a son or sons shall attain the age of 21 yrs or being a daur or daurs shall attain that age or marry Then and in that case that the sd (T) and the survor of them do and shall stand possessed of the sd trust mos stocks funds and secties or so much thereof as shall not have been disposed of by virtue of the provo for advancement hnbefe contd upon the trusts following that is to say in case the sd (I H) shall happen to survive the sd (I W) *upon trust* that they the sd (T) or the survor, &c. do and shall immly after the dece of the sd (I W) and such failure of issue as afd convey assign and transfer the sd messe or tent stock furniture and effects unto and to the use of the sd (I H) his exs ads and ass to for his and their own proper use and bent But in case the sd (I W) shall survive the sd (I H) then that they the sd (T) and the survor, &c. do and shall immly after the dece of the sd (I H) and such failure of issue as afd convey, &c. the sd messe, &c. to the sd (I W) her exs and ads to and for her and their

chn if all of them except two chn shall die before their respive shares shall become transferable or paye by virtue of these prests no bent of accruer or snivorship shall be had or taken by either of such two chn in case of the death of either of them'

own proper use and bent *Provided also* and it is hby
decld, &c. (power to appoint new trustees, indemnity
to trustees, and proviso for their reimbursing themselves,
see *Gen. Prec.*) *In Witness, &c.*

Stock.

Settlement of Stock.

*This Indre made, &c. Betn (intended husband) of,
&c. of the first pt (intended wife) of, &c. of the second
pt and (trustees) of, &c. of the third pt Whas a marre
is intended to be shortly had and solemnized betn the
sd (I H) and the sd (I W) And whas (a) the sd (I H)
is entitled to the sum of £ — capital stock of the
Bank of England commonly called Bank Stock and
the sd (I W) is entitled to the sum of £ — in the ca-
pital stock of the governor and company of merchants
of Gt Britn trading to the South Seas commonly called
South Sea Stock Now this Indre Witnesseth That in
conson of the sd intended marre and to the intent that
the sd sevl sums or pcls of stock and the divds and prfts
thereof may be secured and applied upon the trusts and
to and for the intents and purps hnafttr mentd and
expssd they the sd (I H) and (I W) do hby for them-
selves sevlly and resply and for their sevl and respive
hrs exs ads and ass and not the one for the or. of them
covt, &c. with, &c. the sd (T) their exs ads and ass
that they the sd (I H) and (I W) shall and will within*

Recitals.

Testatum.

(a) Or recite thus, '*And whas the sd (I W) is now entitled to
the capital sum of £ — 3 per cent. Consolidated Bank Annuities
which was lately standing in her name in the books of the Gov and
Compy of the Bank of England And whas upon the treaty for the
sd intended marre and for making some provision for the pties and
the issue of the same it was agrd that the sd sum of £ — 3 per cent.
Consol. Bank Annuities should be transferred into the names of
the sd (T) upon the trusts hnafttr decld of and concerning the
same And whas in pursuance of the sd agrmt the sd sum of £ —
3 per cent. with the consent and approbation of the sd (I H) testi-
fied by his being a pty to and exting these prests has been accord-
ingly transferred by or by the order of the sd (I W) into the names
of the sd (T) in the books of the Gov. and Compy of the Bk of
Engld Now this Indre Witnesseth that in conson of the sd in-
tended marre it is covtd concluded and agrd by and betn the pties
to these prests that the sd (T) and the survivor, &c. shall hence-
forth stand possessed of and interested in the sd sum of £ — 3 per
cent, &c. annities in trust for the sd (I W) until the solemnization
thereof Upon the trusts, &c. that is to say upon trust to permit
and suffer the sd (I H) to rece take and enjoy the int divds and
annual produce of the same Bank Annties half yrlly as the same
shall become due and paye to and for his and their own proper
use and bent and from and immly after the dece of, &c.' as above.*

*Lease-
holds, &c.*

For ad-
vancement.

also and it is hby decld, &c. that until the whole of the sd trust mos stocks funds and secties shall be or become vested in such child or chn or issue as afd they the sd (T) and survor, &c. do and shall pay apply the int divds and annual produce thereof unto and for the bent of all and every the child or chn of the sd intended marre or the issue as afd for the time being entitled for and towards their maintenance and education *Provided also* and it is hby decld, &c. that it shall and may be lful for the sd (T) and the survor in case there shall not be any direction or appointment as afd to the contrary to sell assign and transfer any pt not exceeding one moiety of the appointed expectant or apparent share or shares for the time of the sd chn of the sd (I H) by the sd (I W) as shall be a son or sons of or in the trust mos stocks funds and secties and to apply the mos to be produced by evy such sale or tranfer in the placing or putting him or them whose share or shares shall be so in pt sold or transferred in or towards any business profession or engagement or orwise for his preferment or advancement in the world notwithstanding his or their share or respive shares shall not then have become vested and paye *Provided always* and it is hby decld and agrd, &c. that if there shall not be any child or chn of the sd intended marre or being such if all of them shall die before any being a son or sons shall attain the age of 21 yrs or being a daur or daurs shall attain that age or marry Then and in that case that the sd (T) and the survor of them do and shall stand possessed of the sd trust mos stocks funds and secties or so much thereof as shall not have been disposed of by virtue of the provo for advancement hnbefe contd upon the trusts following that is to say in case the sd (I H) shall happen to survive the sd (I W) *upon trust* that they the sd (T) or the survor, &c. do and shall immly after the dece of the sd (I W) and such failure of issue as afd convey assign and transfer the sd messe or tent stock furniture and effects unto and to the use of the sd (I H) his exs ads and ass to for his and their own proper use and bent But in case the sd (I W) shall survive the sd (I H) then that they the sd (T) and the survor, &c. do and shall immly after the dece of the sd (I H) and such failure of issue as afd convey, &c. the sd messe, &c. to the sd (I W) her exs and ads to and for her and their

chn if all of them except two chn shall die before their respive shares shall become transferable or paye by virtue of these prets no bent of accruer or suvivorship shall be had or taken by either of such two chn in case of the death of either of them'

own proper use and bent *Provided also* and it is hby decl'd, &c. (power to appoint new trustees, indemnity to trustees, and proviso for their reimbursing themselves, see *Gen. Prec.*) *In Witness, &c.*

Stock.

Settlement of Stock.

This Indre made, &c. Betn (intended husband) of, &c. of the first pt (intended wife) of, &c. of the second pt and (trustees) of, &c. of the third pt Whas a marre is intended to be shortly had and solemnized betn the sd (I H) and the sd (I W) And whas (a) the sd (I H) is entitled to the sum of £ — capital stock of the Bank of England commonly called Bank Stock and the sd (I W) is entitled to the sum of £ — in the capital stock of the governor and company of merchants of Gt Britn trading to the South Seas commonly called South Sea Stock Now this Indre Witnesseth That in conson of the sd intended marre and to the intent that the sd sevl sums or pcls of stock and the divds and prfts thereof may be secured and applied upon the trusts and to and for the intents and purps hnaft mentd and expsd they the sd (I H) and (I W) do hby for themselves sevlly and resply and for their sevl and respive hrs exs ads and ass and not the one for the or. of them covt, &c. with, &c. the sd (T) their exs ads and ass that they the sd (I H) and (I W) shall and will within

Recitals.

Testatum.

(a) Or recite thus, '*And whas the sd (I W) is now entitled to the capital sum of £ — 3 per cent. Consolidated Bank Annuities which was lately standing in her name in the books of the Gov and Compy of the Bank of England And whas upon the treaty for the sd intended marre and for making some provision for the pties and the issue of the same it was agrd that the sd sum of £ — 3 per cent. Consol. Bank Annuities should be transferred into the names of the sd (T) upon the trusts hnaft decl'd of and concerning the same And whas in pursuance of the sd agrmt the sd sum of £ — 3 per cent. with the consent and approbation of the sd (I H) testified by his being a pty to and exting these prests has been accordingly transferred by or by the order of the sd (I W) into the names of the sd (T) in the books of the Gov. and Compy of the Bk of Englnd Now this Indre Witnesseth that in conson of the sd intended marre it is covtd concluded and agrd by and betn the pties to these prests that the sd (T) and the survor, &c. shall henceforth stand possessed of and interested in the sd sum of £ — 3 per cent, &c. annities in trust for the sd (I W) until the solemnization of the sd intended marre And from and immly after the solemnization thereof Upon the trusts, &c. that is to say upon trust to permit and suffer the sd (I H) to rece take and enjoy the int divds and annual produce of the same Bank Annties half yrly as the same shall become due and paye to and for his and their own proper use and bent and from and immly after the dece of, &c.' as above.*

Stock. days next ensuing the date of these prests in due form well and sufficiently transfer and assign in the respective books kept for that purpose the sum of £ — Bk stock and the sum of £ — S S stock into the names of the sd (T) And it is hereby decided concluded and agreed by and betw the pties to these prests that the sd sevl sums or pcels of the sd stock then so transferred and all the divds and prfts thereof shall be and remain to the sd (T) their exs ads and ass upon under and subject to the sevl uses trusts intents purps condons and agrmts hrafter expsd and decid of and concerning the same that is to say As to and for the sd sum of £ — Bk stock in trust for the sd (I H) until the solemnization of the sd intended marre and as to and for the sd sum of £ — S S stock in trust for the sd (I W) until the solemnization of the same intended marre And from and immly after the solemnization thereof as to and for the sd sevl sums of £ — and £ — of the sd stock in trust that they the sd (T) do and shall permit and suffer the sd (I H) and his ass during the term of his natural life to have rece and take to his and their own proper use and behoof all the divds int and or. prfts which shall during his life accrue arise or be made by or from the sd sevl sums or pcels of stock or any of them And from and immly after the dece of the sd (I H) then upon trust in case the sd (I W) shall survive the sd (I H) to permit and suffer the sd (I W) and her ass during her natural life to rece and take to her and their own proper use and behoof all the divds ints and or. prfts which shall during her life accrue arise or be made by or from the sd sevl sums or pcels of stock or any of them And from and immly after the dece of the survivor of them the sd (I H) and (I W) then upon this furr trust that they the sd (T) and the survivor, &c. do and shall pay assign and transfer the sd sevl sums or pcels of stock and the divds int and or. produce thereof unto and amongst all and evy the child and chn of the sd (I H) and (I W) and their chn (a) in case any of them shall be then dead leaving issue in such pts and proportions and at such time and times and in such manner and form as the survivor of them the sd (I H) and (I W) by any deed, &c. to be by him or her sealed or by his or her last will, &c. shall direct or appt And in deft of such diron or apptmt then unto and amongst all and every the child and chn of the sd (I H) and (I W) and and their children in case any of them shall happen to be dead leaving chn but so as that the chn of the sd

Declara-
tion of
trusts.

(a) As to the appointment to children and grandchildren, see Pref. § 5.

sons or daurs of the sd (*I H*) and (*I W*) as shall then happen to be dead shall be entitled only to the share which his her or their father or mother would have been entitled to if living equally to be divided among such chn if there be more than one share and share alike and if but one then wholly to such one And in case there shall be no such son or daur nor any issue of such son or daur living at the time of the dece of the sd (*I H*) and the sd (*I W*) shall not be *enseint* of a child which shall be afterwards born then *upon this furr trust* that they the sd (*T*) and the survivor, &c. do and shall transfer and assign the sd sevl sums or pcls of stock to such psn or psns as the sd (*I H*) shall by any deed, &c. or by his last will, &c. direct or appt and in deft of such diron and apptmt in case the sd (*I W*) shall happen to survive the sd (*I H*) to such psn and as she the sd (*I W*) by any deed, &c. or by her last will, &c. shall direct or appt and in deft of such apptmt to such psn or psns as would have been entitled to the respite sums or pcls of the sd stock in case the sd (*I H*) and (*I W*) had died witht having been married and intestate *And upon this furr trust* that they the sd (*T*) and the survivor, &c. do and shall in the mean time after the death of the survivor of them the sd (*I H*) and (*I W*) and until the sd sums of £ — and £ — stock shall become transferable by virtue of the trusts afd rece the yrlly divds int and produce thereof resply and pay the same into the hands of the guardian or guardians for the time being of such child or chn in order that such divds ints and produce may be resply applied for and towards the respite maintenance and education of the sd child or chn if more than one according and in proportion to their respite expectant share or shares of and in the sevl principal sums of the sd stock *Provided always* and it is hby agrd and decl'd that in case any such child or chn being a son or sons shall attain the age of 21 yrs or being a daur or daurs shall attain that age or marry then and in that case the share or shares of such child or chn so attaining the age of 21 yrs or being married as afd shall be and be deemed a vested int in him or them and shall be transmissible as such to his or their personal representatives notwithstanding the death of such child or chn in the lifetime of their parents or the survivor of them *Provided always* that if any child, &c. (clause of survivorship, see *last precedent*) *Provided always* and it is hby decl'd and agrd by and betn the sd pties to these prests that it shall and may be lful to and for the sd (*T*) and the survivor, &c. at any time during the lifetime of the sd (*I H*) and

Stock.

Proviso
for main-
tenance, &c.

Survivor-
ship.

Proviso for
advance-
ment of
sons.

*Agree-
ments.*

(*I W*) with their joint consent or after the dece of either of them with the consent of the survor of them and after their dece at his or their own discretion in case there shall not be any direction or apptmt as afd contrary to the tenor and effect of this present proviso to sell and transfer any pt not exceeding one moiety of the expectant or apparent share or shares for the time being of such of the chn of the sd (*I H*) and (*I W*) as shall be a son or sons of and in the sd sums or pcls of the sd stock and to apply the mos to be produced by every such sale or transfer in the placing or putting him or them in any business profession or engagement or orwise for his or their preferment or advancement in the world notwithstanding his or their share or shares of and in the sd sums or pcls of stock shall not have then become vested or transferable as afd *Provided always, &c.* (power to vary funds, see *last precedent*; also indemnity to trustees and proviso for their reimbursing themselves and power to appoint new trustees, *Gen. Prec.*) *In Witness, &c.*

SHIPPING.

Under this head, are comprehended all instruments used in completing maritime contracts, as agreements for freight, or between the master and mariners, or passengers, bills of lading, bills of sale, bottomry and respondentia bonds, charter-parties, &c. see the *subsequent precedents*; also, *Abbott on Shipping*; *Hull on the Navigation Laws*; 3 *Chitty's Commercial Law*, and *Montefiore's Precedents*.

Agreement for Freight, between the Master of a Ship and a Merchant.

Master
agrees to
take in
goods.

Articles of agreement, &c. Betn (master) of, &c. master of the good ship or vessel called the of the one pt and (merchant) of, &c. of the or. pt Witness that the sd (master) for the consons hereinafter mentd doth hby for himself his exs ads and ass covt promise and agree with and to the sd (merchant) his executors administrators and assigns that the sd ship shall with all convenient expedition be made ready in all respects for her intended voyage from to and shall recee and take on board her for the sd (merchant) such goods wares and merchandize as the sd (merchant) his factors or ass shall think fit at and after the rate of £ — per

ton and within days after the date hereof *And shall* *Agree-*
 and will set sail and depart from outwards and wind *ments.*
 and weather serving shall sail to and within days *And to sail,*
 after her arrival there shall unlade and deliver the same *&c.*
 unto the factors or ass of the sd (*merchant*) (the dan-
 gers of the sea, &c. always excepted) And he the sd
 (*master*) shall and will pay all the tonnage duty pay-
 able in respect thereof and also shall and will well and
 truly keep observe and perform all lful port regula-
 tions at or elsewhere *And also* that he the sd *To execute*
 (*master*) shall and will within the space of days *charter-*
 from the date hereof exte in due form of law a char- *party.*
 ter-party (*a*) to the sd (*merchant*) for performing the sd
 voyage according to the true intent and meaning of
 these prests *And* the said (*merchant*) in conson of *Merchant*
 the preses doth hby for himself his exs ads and ass covt *agrees to*
 promise and agree with and to the sd (*master*) his exs *lade.*
 ads and ass that he the sd (*merchant*) his exs ads
 factors or ass shall and will lade or tender the sd
 goods to be laden on board the sd ship and will pay
 or cause to be paid to the sd (*master*) his exs ads or
 ass for freight thereof at or after the rate of £ — per
 ton innmy after a right discharge and delivery thereof
 togr with primage and average as is accustomed
In Witness, &c.

Agreement for the Sale of a Ship and finishing the Hull.

Obs. 1. As to what is required by the last Registry Act on the transfer of property in ships, see *Bill of Sale*. A recital of the certificate of registry is not now necessary to the validity of an executory contract for the transfer of property in a ship, as was expressly required by the 34 G. III. c. 68, § 14, nor an indorsement of such a contract, as was formerly held to be necessary under that statute, *Mortimer v. Fleming*, 4 B. and C. 120.

2. Where the primary object of an agreement is the sale of goods, the introduction of other matter connected with the sale, as the agreement to procure a charter-party, on the sale of a ship, has been held not to take it out of the exemption of agreements relating to the sale of goods, *Took v. Meering*, 1 Dans. and L. L. 35. 2 Man. and R. 121. Stamp.

Articles, &c. Betn (*vendor*) of, &c. of the one pt and (*purchaser*) of, &c. of the or. pt *Witness* as follow
 That the sd (*V*) for the consons hnaft mentd doth hby
 for himself, &c. agree to sell unto the sd (*P*) the hull
 or body of a new ship or vessel of the following dimen-

(*a*) If the agreement be for only part of a ship, say, 'exte a bill of lading'

*Agree-
ments
between
Master
and
Mariners.*

And at his
own ex-
pence finish
the hull,

and launch
the ship
when com-
pleted.

Purchaser
agrees to
pay £ —
per ton for
the ship.

sions (here set out the dimensions) computed to be of the burthen of tons be the same more or less And the sd (*V*) shall and will at his own charge and expence in a substantial and workmanlike manner do and perform the several works in and about the sd hull of the sd ship as follows that is to say, &c. (here set out the works) And shall and will find and provide a complete suit of masts and yards fitting for such a ship And will likewise do and perform all joiner's painter's and plumber's work and all other works for the complete finishing the sd hull or body of the sd ship according to the custom of the shipwrights of the river Thames and will launch her in the river Thames and deliver her safe unto the sd (*P*) And the sd (*P*) in conson of the preses doth hby covt promise and agree with and to the sd (*V*) by these prests that he the sd (*P*) his exs ads or ass shall and will truly pay or cause to be pd unto the sd (*V*) his exs ads or ass so much lful money of Gt Britn as the sd ship at or after the rate of £ — per ton and proportionably for a lesser quantity than a ton shall amount unto upon admeasure-ment according to the rule and custom of the shipwrights of the river Thames in manner following that is to say the sum of £ — pt thof on the day of and the remainder of the purchase money on the launching and mooring the sd vessel in safety he the sd (*V*) his exs or ads at the time of the first payment executing and delivering at the costs and chas of him the sd (*P*) a sufficient bill of sale of the sd hull of the sd ship with her apts unto the sd (*P*) his exs ads or ass or to such other psn or psns as he or they shall order or direct *In Witness, &c.*

Agreement between a Master of a Ship and the Mariners.

Obs. By the 31 G. III. c. 39, every master of a coasting vessel is bound, under a penalty of 5*l.* for each seaman, to enter into an agreement with his mariners, and they are to sign the same on their entering. This agreement is exempt from the stamp.

Articles, &c. Between (master) of, &c. master of the ship called the of the one part and (mariners) mariners of the sd ship of the or. part *Witness* that in consideration of the monthly or other wages against each mariner's name hereunto set they severally shall and will perform the abovementd voyage And the sd (*master*) doth hby agree with and hire the sd mariners for the sd voyage at the sd monthly wages subject to all the rules directions and penalties in the Act of Parliament passed for that purpe And they the sd seamen and mariners do hby promise and oblige themselves to do their duty and obey the lful commands of their officers

on board the sd ship or boats thereunto belonging as become good and faithful seamen and mariners and at all places where the sd ship shall put in or anchor during the sd ship's voyage to do their best endeavours for the preservation of the sd ship and cargo In Witness whereof we have each of us affixed our hands the day of

*Agreements
between
Master
and Pas-
sengers.*

*Agreement between the Master of a Ship and his
Passengers.*

Articles, &c. Between (*master*) of, &c. master of the ship called bound on a voyage to of the one part and A, B, C, &c. (*passengers*) for themselves and for and on behalf of about other persons going as passengers in the said ship of the other part as follows that is to say The said (*master*) doth hereby covenant promise and agree with and to the said A, B, C, &c. that in consideration of his being paid the sum of £— of lawful money of Great Britain per head by or for such and so many of the said persons as intend to go as passengers in the said ship accounting two children under 10 years of age as equal to one person at or before his her or their entrance on board the sd ship he the said (*master*) will receive him her or them by whom he shall be so paid as aforesaid on board the said ship within days after the date hereof and a chest or trunk for each passenger and will provide them with cabins and convenient room for lodging and wholesome and sufficient victuals and provisions during the said voyage and will with all convenient speed depart from and out of the river and sail direct for the city of in and will there deliver the said passengers with their trunks chests and goods ashore in safety (the dangers of the sea, &c. only excepted) And the said (*master*) doth hereby acknowledge to have received an order on Messrs. C and L bankers for the sum of £— in part payment of that which the sd (*master*) is to receive for the said passengers And the sd A, B, C, &c. on behalf of themselves and the sd other passengers do hereby covenant promise and agree with and to the said (*master*) that they shall and will go on board at any time upon days notice being given to the said A, B, C, &c. by the sd (*master*) and that the sum of £— being the residue of what the said (*master*) is to receive for the said passengers as before mentioned shall then by the said A, B, C, &c. be duly paid unto the said (*master*) In Witness, &c.

Master
agrees to
receive pas-
sengers.

Passengers
agree to go
on board
on notice
being
given,
and pay
residue of
the passage-
money.

*Bills of Lading.**Bills of Lading.*

What it is. Obs. 1. A bill of lading is an acknowledgment by the captain of having received the goods loaded on board his ship, *Lickbarrow v. Mason*, 2 T. R. 75. Of this there are usually three parts, one kept by the shipper or consignor, one sent to the consignee, and one kept by the shipmaster or captain, *Lickbarrow v. Mason*, 2 *ib.* 72. A bill of lading is usually given as a contract for the conveyance of a single article on board a ship that has sundry merchandize shipped for different persons; and in this respect it differs from a charter-party, which is a contract for the use of the whole ship.

Form of. 2. In the old form of a bill of lading the exception ran simply thus, 'The dangers of the sea excepted;' but, in consequence of the decision in *Smith v. Shepherd*, (cited in *Abbott on Shipp.* 215) it was altered to the form now in use. Other clauses may be added to take away the responsibility of the master or owners; as in the case of ships homeward bound from the West Indies a saving clause is added, 'save risk of boats so far as ships are liable thereto,' *Johnson v. Benson*, 1 B. and B. 454; or for securing some advantage to the owner, as the payment of demurrage, by the words, 'To be taken out in fourteen days, or to pay eighty shillings a day for demurrage,' *Harrison v. Clarke*, 4 Campb. 159. The name of a consignee is sometimes mentioned, but sometimes the shipper or consignor is himself named as consignee, and the engagement is to deliver to him or his assigns; sometimes no person is named, as, 'To be delivered, &c. unto order or assigns,' importing an engagement on the part of the master to deliver the goods to the person to whom the shipper or consignor shall order the delivery, or to the assignee of such person.

Transferable. 3. Bills of lading are negotiable by the custom of merchants, the consignee of a bill of lading having such a property that he may assign it over, *Evans v. Martlett*, 1 Ld. Raym. 271. They are transferred by indorsement and delivery of them by the shipper or consignor. An indorsement may be either in blank, that is, with the name of the shipper only, without describing or naming the person to whom the delivery is directed to be made; or it may be special, that is, it may define the person who may receive the goods. The effect of both is pretty nearly the same. An indorsement in blank may be filled up by the person to whom it is delivered, with words ordering the delivery of the goods, or contents of the bill of lading, to be made to the person named; and such an indorsement will have the same operation as if it had been made by the consignor himself, and the *bonâ fide* holder or bearer of the bill of lading so indorsed may receive the goods, and his receipt will discharge the shipmaster, *Lickbarrow v. Mason*, 2 T. R. 75; 5 T. R. 686; *Mason v. Lickbarrow*, 1 H. Bl. 360. The property in a cargo may be transferred by delivery of the goods without indorsement of the bill of lading, and the transfer will be good against all the world, except subsequent indorsees of the bill of lading for a valuable consideration, *Nathan v. Giles*, 5 Taunt. 558. An indorsement without consideration does not transfer any property, *Waring v. Cox*, 1 Campb. 369. So when a bill of lading is indorsed upon condition, the condition must be fulfilled, to entitle the indorsee to the benefit of it, *Barrow v. Coles*, 3 Campb. 92.

Stamp. 4. By the 55 G. III. c. 18, a bill of lading of goods exported or carried coast-wise, is charged with a stamp of 3s.; before this Act, goods carried from a port in Scotland to a port in England were not chargeable with any stamp, *Scotland v. Wilson*, 1 Marsh. 204.

*A Bill of Lading. (General Form.)**Bills of Sale.*

Obs. As to the stamp, see Obs. 4.

Shipped by the Grace of God in good order by A B merchant in and upon the good ship called the Good Hope whereof (*master*) is master now riding at anchor in the river Thames and by God's grace bound for Barcelona in Spain 20 bales containing 100 pieces of broad cloth marked and numbered as per margin and are to be delivered in the like good order and condition at the afd port of Barcelona (the act of God the king's enemies and all and evy or. dangers and accidents of the seas rivers and navigation of whatever nature and kind soever (a) excepted) unto E F (b) merchant there or his ass he or they paying for the goods per piece freight with primage and average accustomed *In Witness* whereof the master or purser of the sd ship hath affirmed to three bills of (c) lading of this tenor and date one of which being accomplished the or. two to stand void And so God send the good ship to her destined port in safety Dated at London the day of 18

Indorsement of a Bill of Lading in Blank (d) by the Consignee.

Deliver the contents to and
E F (*consignee*)

Bills of Sale.

Obs. 1. By the last Registry Act, 6 G. IV. c. 110, s. 31, the property in a ship, or any part of a ship, may, after registry thereof, pursuant to the provisions of the Act, be transferred by bill of sale, or other instrument in writing. But no bill of sale will be valid, unless it contains a recital of the certificate. The recital must likewise be accurate, but no error in the recital is to vitiate the instrument, provided the identity of the ship can be effectually proved thereby. The Act also requires that the particulars of the bill of sale should be entered in the book of registry, and when so entered as the Act requires, the bill of sale is to be valid against all the world, except the purchaser and mortgagee, who shall first procure the indorsement in the manner directed by the Act, (s. 37, 38, 39, and 40,) the purpose of which is to determine the time when the bill of sale shall take effect, where there are several purchasers or mortgagees of the same property, which formerly occasioned much

(a) If it be necessary, add, 'save risks of boats so far as ships are liable thereto excepted,' see Obs. 2.

(b) As to the person to whom the goods are to be delivered, see Obs. 2.

(c) See Obs. 1.

(d) As to the effect of such an indorsement, see Obs. 3.

Bills of Sale.

doubt and difficulty, *Moss v. Charnock*, 2 E. 399; *Hayton v. Jackson*, 8 E. 511; *Richardson v. Campbell*, 5 B. and A. 196.

Stamp.

2. By the 6 G. IV. c. 41, no stamp duties are now required in respect of bills of sale, or other conveyances of any ship.

Absolute Bill of Sale of a Ship. (General Precedent).

Recitals. To all Men to whom these Prests shall come I (v^{endor}) of, &c. send greeting Whereas the sd (V) is the owner or proprietor of a certain ship or vessel called the Good Hope of the burthen of tons now on her voyage to whereof (master) is master And whas the sd ship hath been duly (a) registered pursuant to the Act of Parlt the copy of the certificate of which registry is as follows that is to say In pursuance of an Act passed in the yr of the reign of intituled "An Act, &c." (owner) of, &c. having sworn that he is sole owner of the ship or vessel called the Good Hope of which (M) is master and that it was built at is British built has, &c. (here state number of masts decks, &c.) and admeasures tons And the subscribing owner having consented and agrd to the above description and admeasurement and having caused sufficient security to be given as is required by the sd Act the sd vessel has been duly registered at the port of L Given under our hands and seals of office at the custom-house in the sd port this day of in the yr And whas (P) of, &c. hath contracted with the sd (V) for the absolute purchase of the ship or vessel with the ap^ts at or for the price or sum of £ — Now know ye That I the sd (V) for and in conson of the sum of £ — of, &c. in hand, &c. to me the sd (V) pd by the sd (P) at, &c. the rect whereof I the sd (V) do hby acknge and of and from the same do acquit, &c. the sd (P) I the sd (V) Have granted bargained sold assigned transferred and set over and by these prests Do fully and absolutely grant, &c. unto the sd (P) All that ship or vessel called the Good Hope now lying in the port of L with all and singular the masts sails standing and running rigging ropes cables anchors boats oars tackle apparel furniture and ap^ts whatsr to the sd ship or vessel belonging To Have and to Hold the same ship or vessel and all and singr or. the preses hby bargained and sold or intended so to be and evy pt and p^{cl} thereof with the ap^ts unto the sd (P) his exs ads and ass as his and their own goods and chattels

Grant. And I the sd (V) do for myself my hrs exs and ads covt, &c. with the sd (P) in manner following that is to say

Habendum. That I the sd (V) at the time of sealing and delivering

Covenants.

Good right to convey.

(a) As to the recital of the certificate, see Obs. 1.

these presents have in myself good right and lful and absolute authty by these prests to grant bargain sell assign transfer and set over the sd ship or vessel called the Good Hope and preses with the apts unto the sd (P) his exs ads and ass in manner and form and according to the true intent and meaning of these prests *And also* that the sd ship or vessel and preses hby bargained and sold and evy pt and pcl with the apts shall from henceforth for ever after remain continue and be unto the sd (P) his exs ads and ass free and clear and freely and clearly acquitted exonerated and discharged of and from all or. bargains sales gifts grants titles judgments debts chas and incumbs whatsr *In Witness, &c.*

Bills of Sale.

Quiet enjoyment.

The Receipt.

Received the day and year first above-written of and from the before named (P) the sum of £ — being the consideration-money before-mentioned to be by him paid to me As witness my hand

(*vendor*)

Bill of Sale from two Persons, each of a Moiety. (Variations where the Vendors are in General Part Owners.)

Obs. By the last Registry Acts the property in a ship may be considered as divided into sixty-four parts; but there cannot be more than thirty-two persons owners at the same time.

Know all, (a) &c. That A B of, &c. owner of one full moiety or half part of and in all that good ship or vessel called, &c. and C D of, &c. owner of the other full and equal moiety or one half pt of, &c. for and in conson of their sevl full and equal half parts or moieties of the sum of £ — of, &c. to them in hand, &c. the rect whof they do hby acknge and, &c. *Have* severally granted, &c. and by, &c. *Do grant, &c.* unto E F of, &c. the one full and equal moiety or half pt of and in *All* the afd ship or vessel called, &c. and whof each of them is decld to be owner as afd and of and in all and singr the masts, &c. which sd ship has been duly registered pursuant to an

Grant.

(a) *Know all, &c.* That A B of, &c. and C D of, &c. owners of pts or shares of and in the ship or vessel called, &c. for and in conson of the sum of £ — to them, &c. pd by the sd C D of, &c. *Do grant, &c. All those* full and equal pts or shares the whole into pts considered to be divided of and in the sd ship, &c. togr with full and equal pts or shares of and in the masts, &c. which sd ship has been duly, &c. *as above.*

<i>Bills of Sale.</i>	Act of Parlt for that purpose and a copy of the certificate of such registry is as follows, "In pursuance," &c. <i>To Have</i> , &c. the sd (a) moieties or, &c. unto the sd E F his exs ads and ass
<i>Covenants.</i>	<i>And</i> they the sd A B and C D do hby severally and respily and not jtly nor one for the other nor for the other's acts deeds or defts but each for himself his exs ads and ass and his and their acts, &c. only covt, &c. that each of them the sd A B and C D hath at the time, &c. full power, &c. to grant, &c. the sd moiety (b) &c. in the sd ship or vessel with the apts by them respily sold unto the sd E F his exs ads and ass in manner and form afd and that their sd sevl moieties or half pts of and in the sd ship or vessel with the apts by them respily sold as afd now are and from henceforth for ever shall remain and continue unto the sd E F his exs ads and ass <i>In Witness</i> , &c.
<i>Power to grant.</i>	
<i>Quiet enjoyment.</i>	

The Receipt.

We the within-named A B and C D each of us acknowledge to have received the day and year within-written of the within-named E F one full moiety or half-pt of the sum of £ — according to our parts in the sd ship within sold being in full for the consideration of the within-written bill of sale We say received £ —

Conditional Bill of Sale.

Obs. It was formerly a question whether a mortgagee of a ship was to be deemed in law an owner, so as to be entitled to the benefits and liable to the burthens which belong to that character; but now by 6 G. IV. c. 110, s. 45, when the transfer is made only by way of security, and a statement to that effect is made in the book of registry, and in the indorsement on the certificate, the mortgagee is to be considered as owner only for the purpose of securing his debt, *Abbott on Shipp.* p. 17.

<i>Recital of bond.</i>	<i>This Indre</i> Betn A B of, &c. of the one pt and C D of, &c. of the or. pt <i>Whas</i> the sd A B by a bond or obligation under his hand bearing date became and now standeth bound in the penal sum of £ — conditioned for the payment of £ — on the day of as by the sd bond relation being thereto had will more fully appear
<i>Testatum.</i>	<i>Now this Indre Witnesseth</i> That in conson of the sd sum of £ — so lent by the sd C D the rect whereof the sd A B doth hby acknge and for which the

(a) 'The sd pts or shares of and in the sd, &c.' *as above.*
 (b) 'Their sd pts or shares of and in, &c.' *as above.*

sd recited bond was given and as a collateral and furr secty unto the sd C D for the more sure repayment of the sd sum of, &c. according to the condon of the sd in pt recited bond He the sd A B *Hath* granted, &c. and by these prests *Doth* grant, &c. *All that* good ship or vessel called the now lying, &c. which ship or vessel was granted to the sd A B by E F of, &c. by a certain writing or bill of sale bearing date and has been duly registered pursuant to the Act, &c. (*sec last precedent*) *To Have*, &c. unto the sd C D his exs ads and ass, &c. from henceforth for ever *Provided always* and these prests are upon this express condon that if the sd A B his hrs exs or ads do and shall pay, &c. unto the sd C D his exs ads or ass the sum of £ — with int according to the condon of the sd in pt recited bond witht any manner of abatement or deduction whatsr then these prests and every matter and clause therein contd shall cease determine and be absolutely void *And* the sd A B for himself his hrs exs and ads doth hby covenant promise and declare with and to the sd C D in mann'r following that is to say That he the sd A B his exs ads or ass shall and will (pay, &c.) *And also* that in case default shall happen to be made in payment of the sd sum of £ — contrary to the true intent and meaning of these prests the sd ship or vessel and preses hby bargained and sold shall thenceforth for ever after remain continue and be unto the sd C D his exs ads and ass free and clear and freely and clearly acquitted exonerated and discharged of and from all or. bargains sales gifts grants titles judgments debts chas and incumbs whatsr *And furr* that he the sd A B his exs ads or ass shall and will do, &c. all such furr and or. acts, &c. as shall be necessary for the furr more absolutely and perfectly conveying and assuring the sd ship or vessel and preses hby bargained and sold unto the sd C D his exs ads and ass or as he and they shall direct or appt(a) *In Witness*, &c.

Bills of Sale.

Proviso for making void these presents.

Covenants from A B.

To pay the debt.

Quiet enjoyment in case of default.

(a) In a conditional bill of sale, add an assignment of a policy of insurance, as follows: '*And whas* the sd A B hath by writing or policy of insurance dated, &c. insured the sum of £ — upon the sd ship at and from L to M as thereby relation being thereto had will more fully appear *Now these Prests further Witness* That in cou-son of the preses the sd A B doth by these prests assign transfer and set over unto the sd C D his, &c. *All that* the sd recited policy of insurance and all sums of money to beco.ue due and paye thereon and all his right of action int bent claim and demand of in and to the same *To Have*, &c. unto, &c. subject to the proviso hinfefe contained *And for the better enabling him and them to recover and rece* the same he the sd A B doth hby constitute and appt the sd C D his exs, &c. to be his true and lfal attorney and atties to demand and rece all mos which may grow due upon the sd policy from all whom it doth or shall concern and upon rect thof or of any pt thof

*Bonds.**Bottomry Bond.**Bottomry.*

Obs. 1. Bottomry is a contract by which the owner of a ship borrows money, and pledges the keel of a ship for the repayment. In this case it is understood, that if the ship is lost, the lender loses his whole money; but if it return in safety, then he is to receive back his principal, and such interest as is agreed upon, which, considering the risk, may exceed the legal rate, *Morse v. Wilson*, 4 T. R. 356.

*Respons-
dencia.*

2. When money is lent upon the goods, and not upon the vessel, it is called a *respondentia* bond. In this latter case the lender must be repaid his principal and interest, although the ship perish, provided the goods are saved, Park. on Insur. c. 21. There was a third sort of contract on the voyage, and not on the ship or goods; but such contracts are declared void by the 19 G. II. c. 37. As to the contract called Hypothecation, see *Precedent*.

Obligation.

Know all Men to whom these Prests shall come I (master) of, &c. mariner part owner and master of the ship called the Good Hope of the burthen of tons and upwards now riding at am held and firmly bound unto (obligee) in the penal sum of £— for the payment of which to be well and truly made I hby bind myself my hrs exs and ads firmly by these prests In Witness whereof I have hereunto set my hand and seal this day of in the yr, &c. And whas the sd (obligee) hath lent the sd (M) the sum of £— to enable him to prosecute the voyage from the port of L to B and hath agrd to stand to and bear the hazard and adventure thereof on the hull or body of the sd ship so as that the period of the sd voyage do not exceed calr mths

*Recital of
the voyage.**Condition.*

Now the Condition of the Obligation is such That if the sd ship do and shall with all convenient speed sail from and return to without deviation except by the casualties of the sea and also if the above-bounden (obligor) his hrs exs or ads do and shall within the space of days next after the return and arrival of the sd ship at at the end and expiration of calr mths to be accounted from the day of the date of the above-written obligation (which of the sd terms shall first happen) well and truly pay or cause to be pd unto the sd (obligee) his exs ads or ass the sum of £— of, &c. or if in the sd voyage and within the sd period of calr mths to be accounted as afd an utter loss of the sd ship or vessel by fire enemies pirates or any other casualty shall unavoidably happen to be sufficiently proved by the sd (obligor) his exs or ads Then, &c.

to give sufficient dischas for the same and to use all remedies ways and means whatsr in law and equity for recovery and rect thereof hby ratifying confirming and allowing and agreeing to, &c. all and whatsr the sd C D his, &c. shall legally do or procure to be done in and touching the prestes In Witness, &c. as above.

A Respondentia Bond.

Bonds.

Obs. As to respondentia, see Bottomry Bond, Obs. 2.

Know all Men to whom these Prests shall come That I (*obligor*) am, &c. *Whas* the above-named (*obligee*) hath on the day of the date of the above-written obligation advanced and lent unto the above-bounden (*obligor*) the sum of £ — upon goods merchandizes and effects laden or to be laden on board the ship or vessel called, &c. whof is master and which sd sum is to rate at respondentia on the sd goods

Obligation.
Recitals.

Now the Condition of, &c. That if the sd ship or vessel do proceed to and thence return to at or before the expiration of calr mths from the date, &c. and that without deviation the dangers and casualties of the sea only excepted and if the above-bounden (*obligor*) his exs, &c. do and shall within the space of days next after the arrival of the sd ship, &c. or at the end, &c. which of the sd terms shall first happen well and truly pay, &c. or if in the sd voyage and within the sd calr mths to be accounted as afd an utter loss of the vessel by fire enemies men of war or any other casualties shall unavoidably happen and the above-bounden (*obligor*) his hrs, &c. do and shall within the space of calr mths next after such loss well and truly acct for upon oath if required and pay and satisfy the sd (*obligor*) a just and proportionable average on all goods merchandize and effects of the sd (*obligor*) carried out on board the sd ship or vessel and the net proceeds thof and on all other goods merchandize and effects which the sd (*obligor*) shall or may acquire during the sd voyage and which shall not be unavoidably lost Then, &c.

Condition.

Charter-parties.

Obs. 1. A charter-party, is an instrument containing the covenants and agreements between merchants and seafaring men, for the hire of a vessel for the conveyance of goods. When it is for the hire of only part of the vessel, it is a bill of lading (see *Bill of Lading*.) It may be under hand only, or under hand and seal. When it is under seal, no parol agreement can be substituted to control the effect of the deed; *White v. Parkin*, 12 E. 578. *Gibbon v. Young*, 2 B. Moore, 224.

Definition.

By parol or
by deed.

2. The parties in a charter-party, may be either the principals themselves, that is, the owners, or their agents, that is, the master or broker. If the vessel be in foreign ports, it is usually made by the master for the owners; but if the charter party be executed by the master, it ought not to be done in his own name, nor without authority given to him by deed, *Harrison v. Jackson*, 7 T. R. 207. The charter party, may either be by indenture or deed poll. In a deed, *inter partes*, no grant or covenant can be made with

Parties.

Charter-parties.

or to any other than such person as may be a party to the deed, but in a deed poll, a grant may be made to any person, *Scudamore v. Vandenstene*, 2 Inst. 673. *Abbott on Shipping*, 166. A charter party begins to take effect from the day it is sealed and delivered, and not from the day of the date, *Oskey v. Hicks*, Cro. Jac. 263.

Words of demise in a charter-party.

3. The words, 'grant, and let to hire,' in a charter-party, are proper words of demise, which of themselves pass the possession of the ship, *Vallio v. Wheeler*, Cowp. 143; *The Trinity House v. Clark*, 4 M. and S. 288; but where there are no such express words of demise of the ship itself, in a charter party, the freighter does not thereby become the owner for the voyage, but the possession remains in the owner, and he therefore has a lien upon the cargo for his freight, *Saville v. Campion*, 2 B. & A. 503; and even where there are such words, yet if, from the terms of the whole instrument, it do not appear to be the intention of the parties to give the freighter possession of the ship, the courts will construe it to be matter of contract only, which does not divest the owner of lien on the cargo, *Christie v. Lewis*, 5 Moore, 211. The common-law right of lien, is confined to the specific chattels in respect of which the payment of freight is claimed, and consequently goods cannot be detained for a breach of a covenant to furnish a full cargo, *Phillips v. Rodie*, 15 E. 547; nor for demurrage, pilotage, or port-charges, *Birley v. Gladstone*, 3 M. & S. 205. *Faith v. E. I. Company*, 4 B. & A. 630; but it may be controlled by the contract of the parties, *ib.*

Lien.

4. Where the freight is expressed to be a sum of money for every ton, cask, or bale of goods, it is usual and proper to add the words, 'and so in proportion for a less quantity than a ton;' otherwise, it has been held, that freight cannot be claimed for a smaller quantity, as a hogshhead; *Rea v. Burnis*, 2 Lev. 124.

5. Under the usual covenant, that the ship shall be sea-worthy, it has been held, that a carrier by water is answerable for leakage; *Lyon v. Afills*, 5 E. 428; and the words 'tight and staunch,' and 'furnished with every thing necessary for the voyage,' extend to the furniture, crew, pilot and stores; *Watt v. Morris*, 1 Dow, 23; *Levy v. Costerton*, 4 Campb. 389; *Wilkie v. Geddes*, 3 Dow. 57; *Weddeburn v. Bell*, 1 Campb. 1; *Law v. Hollingsworth*, 7 T. R. 160. The duty and mode of loading, in the absence of all stipulation, is regulated by the usage and custom of the place; *Corban v. Downe*, 5 Esp. N. P. C. 41. But it has been held, that a master is answerable for bad stowage; *Shield v. Davies*, 4 Campb. 49.

Covenant to load a complete cargo.

6. The charter party usually expresses the burthen of the ship; but, notwithstanding this description, if a freighter covenant to load a full and complete cargo, he is bound to put on board as many goods as the ship is capable of carrying with safety, *Hunter v. Fry*, 2 B. & A. 421; but a covenant on the part of a master to load a complete cargo, is not a condition precedent to the right of freight; *Ritchie v. Atkins*, 10 E. 295.

Covenants on the part of the freighter.

7. The freighter usually covenants, 'in consideration of the premises,' to pay freight, &c. but nothing will be considered as a condition precedent which does not go to the whole root and consideration of the contract, and the owner may recover freight, although some of the stipulations have not been performed; *Davidson v. Gwynne*, 12 E. 389; but if the freighter sustain any injury by the breach of any covenant, he is entitled to a compensation in damages in proportion to his loss; *ib.*

8. The usual clause, called the clause of demurrage, that a certain specified number of days, called working or lay days, shall be allowed for loading and unloading, constitutes a contract not to detain the ship beyond the stipulated periods, *Randall v. Lynch*, 12 E. 179; and if the ship be detained beyond these periods, the daily rate of demurrage, and sometimes even more than that, may be recovered, *Moorsom v. Bell*, 2 Campb. 616; and it seems, that if a merchant engage to do what afterwards proves impracticable, he must still answer for the default; *Barker v. Hodgson*, 3 M. & S. 267. In the clause of demurrage, the word 'days' alone will be understood to signify lay or working days, not running days; *Cochran v. Retberg*, 3 Esp. 121.

Charter-parties.
Demurrage.

9. The charter-party usually concludes with the penal clause, as to the general effect of which, see *Agreements*, vol. i. p. 14. This clause has been held not to give a lien on the goods; *Birley v. Gladstone*, 3 M. & S. 205.

Penal clause.

10. By the 55 G. III. c. 184, a charter-party, whether under seal or not, requires a deed stamp of 1*l.* 15*s.*; and the further progressive duty of 1*l.* 5*s.*. See further as to Charter-Parties; *Abbott on Shipping*; *Holt's Treatise on Shipping*; *Law on Charter-Parties*, 3 Chitty's Common Law.

Stamp.

A Charter-party to carry Goods to a Port abroad, and return with other Goods. (General Form.)

Obs. As to the nature of the instrument, and the necessary stamp, see *Observations*.

In the name of God, Amen. This charter-party of affreightment indented made and concluded betw A B of, &c. owner (a) (or 'master') of the good ship or vessel called burthen about (b) tons of the one pt and C D of, &c. of the or. pt Witnesseth that the sd A B owner thereof doth hby (c) grant and to freight let unto the sd C D (d) the sd ship or vessel and the sd C D hath actually hired the same for the voyage hereunder mentd And therefore the sd A B doth hby for himself, &c. covt, &c. with and to the sd (e) C D in manner following that is to say That the sd ship shall be rendered tight stout and staunch and be fitted made ready and provided with all things (f) fitting for such a ship and voyage and shall rece and take on board her all such goods as the sd C D shall load on board her outwards [with respect to the several parts of the tonnage to him letten] and shall sail directly unto L and within days after her arrival there or sooner shall unload and deliver all her sd outward loading unto the

Grant of ship.

Covenants from owner or master.

To fit ship.

To load goods.

To sail.

To deliver lading.

(a) See Obs. 2. If the master be a party, say, 'as attorney of (owner)'

(b) Obs. 6.

(c) Obs. 3.

(d) If there be several freighters, say, 'unto the sd C D, E F, &c. severally'

(e) Or, with several, 'with and to the sd C D, E F, &c. jtly and severally'

(f) As to the extent of this covenant, see Obs. 5.

Charter-parties. factors of the sd C D And there rece and load and take aboard her all such goods as his factors resply shall load or tender to be laden aboard the sd ship for the full loading the several parts of her tonnage to him letten as much as can be stowed and carried in her over and above her victuals tackle and apparel And (a) being so laden and dispatched she shall depart thence for England and return and come directly into the river Thames as near the city as she conveniently can and within days after her arrival there shall make a right discharge and delivery of all her sd homeward loading unto the sd merchant his exs and ads resply and end and finish her sd intended voyage wind (b) and weather the dangers of the sea and the restraints of princes and rulers always excepted And (c) the sd C D in conson of the preses (d) doth hby covt, &c. with, &c. the sd A B, &c. that he the sd C D his exs, &c. shall and will unload his outward goods and fully load the sd ship at to the amount of the sd ship's tonnage to him letten at with (here describe the goods) as much as she can stow and carry in her above her victuals tackle and apparel and rece and discharge the same from aboard her at L. within the resptive times before limited and will also truly pay or cause to be pd unto the sd A B his exs ads or ass freight (e) for every ton of which shall be laden on board the sd ship at L. and delivered to the sd C D his exs, &c. at as afd and after the rate of £ — sterling per ton for every ton of and proportionably (f) for every lesser quantity than a ton accounting 20 cwt. neat thereof one half pt within days after a right discharge and delivery thereof as afd and the or. half pt within months next after such discharge with per ton primage and will also pay

To take in homeward cargo.

To sail homeward.

To discharge cargo.

Covenants from freighter.

To procure cargo.

To pay freight.

(a) If it be so agreed, say, 'And shall not nor will in either the sd outward or homeward voyage take or load or cause, &c. to be taken on board the sd ship or vessel any goods merchandizes packets letters or parcels whatsr from any or. psn or psns whomsr or. than the sd C D freighter wtht his consent or the consent of his agents or ass in writing for that purpe first had and obtained.'

(b) As to exceptions, see *Bill of Lading*.

(c) Or, 'And the sd C D, E F, &c. do and each of them for himself, &c. sevly and resply and not jly nor one for the or. nor for the ors acts, &c. doth covt with, &c. the sd A B that each of them the C D, E F his factors exs or ass will unload his outward goods and fully load the ship at L — his sd part of the sd ship's tonnage to him letten.'

(d) As to the force of these words, see Obs. 7.

(e) Or, 'for evy ton of for each of the pts or shares of the sd ship's tonnage to them letten'

(f) As to the propriety of these words, see Obs. 4.

average as accustomed togr with the third pt of all port chas to grow due during the sd voyage and it is agrd that what goods the sd C D load outwards are to be carried freight free (a) *In Witness, &c.*

Hypothecation.

An Hypothecation of a Ship and Cargo.

Obs. Hypothecation, is the pledging a ship for necessities in case of distress, which, by our maritime law, may be done by the master, factor, purser, or any reputed owner, and the contract will be binding on the owner. Any pledging a ship under other circumstances, is done by bill of sale, see *Bills of Sale*.

Know all Men to whom this instrument of bond and bill of maritime risk and bottomry may come that in the yr of the birth of our Lord Jesus Christ 18 on the day of in the city of in my office personally appeared (*master*) master of the ship whom I know to be the real person and he decl'd to me in the presence of the witnesses hnaft'r mentioned that within hours after the arrival of his sd ship at or any other port and previous to beginning to make any delivery of the cargo at the port afd or any or. port he the master or whosoever may act in lieu of him or in case of his absence perform the duties of his sd quality shall and will pay by this bill of sea risk exchange and bottomry to (*lender*) &c. professed in the order of

(a) If it be necessary, add, 'And it is hby agrd that the sd C D shall be allowed lay or working days in the whole for loading or unloading the sd outward and homeward bound cargoes to commence and be computed from and exclusive of the days after the sd A B shall be ready to take in and discharge his respive cargoes and notice given thereof to the sd C D his agents cor-respondents or ass and that it shall be lful for the sd C D or his agents, &c. to keep and detain the sd ship or vessel on demurrage for the space of working days over and above the before mentd working or lay days upon paying the sd A B his exs and ads at the rate of £ — per day for each and evy of the sd days of demurrage, (see Obs. 8.) And it is hby furr mutually agrd and decl'd by and betn the sd pties that the sd freighter shall be at liberty to place and send on board the sd vessel a supercargo during the sd voyage for whose passage the sd A B shall make no charge whater the sd supercargo however finding and providing himself with all necessities during the sd voyage And for the due performance of all and singr the covenants condons and agrmts herein contd the sd parties mutually bind themselves their exs and ads in the penal sum of £ — firmly by these prests to be forfeited and pd by the pty delinquent to the pty observant to the true and punctual performance thereof [or, 'especially the sd A B the sd ship her tackle and appts and the sd C D the goods and merchandizes to be laden and put on board the sd vessel on the sd voyage each unto the or. of them in the penal sum, &c.'] As to the efficacy of the penal clause generally, see *Agreements*, Pref. § 9; and as to the inefficacy of the last clause, see *Charter-parties*, Obs. 9.

Hypothe- Christ or to his order the sum of £ — sterling prin-
cation. cipal and premium of risk and sea exchange at the
rate, &c. the which principal he ackngd to have recd
of the sd (*lender*) in the good current money of this
realm under the denomination of true and legitimate
money of sea exchange and bottomry on the hull keel
and appts of the afd ship and herewith to supply the
wants of the repairs caulking and of the cargo of the
same on which he had effectively invested it the sd
(*lender*) taking upon himself and in conson of the afd
premium of £ — per cent. voluntarily agrd and settled
between them to run the sea risk on the sd hull keel
and appts and cargo of the sd ship in her ensuing voy-
age which the sd master is about prosecuting from this
port of to that of these being the risks which
the afd (*lender*) takes upon himself and is to run such
as of the sea winds fire stranding and shipwreck ene-
mies and false friends detentions of princes and reprisals
during the whole of the sd voyage excepting nevss those
of barratry of the master and of average as well parlar
as general the which are expssly excluded the which risk
shall commence to run from the hour the ship shall leave
her first anchor to set sail from this port to that of
and shall cease in twenty-four hours after having come
to an anchor And for the ready payment of the afd
sum of £ — he the master binds himself and his effects
in general dues and funds both in actual posson and
future and by special mtge the cargo freights due or
that may become due and in case of failure of the
prompt payment in due time he binds himself under
this clause of mtge to pay to him or his order for all
the delay until full paymt at and after the rate of £ —
and there being also present (*mate*) mate of the sd ship
by whom it was decld that in case of the absence of
the afd master he bound himself to fulfil the contents
of the bond they thus exted and accepted after these
prests being read to them and I (*notary*) in the name
of whomsr it may concern being absent to all which
were witnesses present (*interpreter*) who also acted as
interpreter as well for the captain as for the mate
he being there vice-consul and (*lender*) who togr with
the pties signed thereto (*notary*) the notary wrote
it (*presentees*) and (*notary*) notary public of notes in
the city of and district of his Maj. our lord
whom God preserve caused this instrmt to be tran-
scribed from my book of notes to which I refer my-
self and have subscribed it and signed it in public form

(*lender*) { In testimony of the truth (*notary*)
whose hand writing is certified by
(*vice consul*)

SURRENDERS.

§ 1. A surrender, is the yielding up, or returning, or relinquishing of a smaller estate, to him who has a greater estate in the same land in remainder, or immediately expectant upon such smaller estate, Shep. Touchst. 300. The most proper words whereby to make a surrender are, 'surrender, give, and yield up,' Shep. Prec. 61; but it may be made without any particular form of words; *Smith v. Maplebach*, 1 T. R. 441.

Definition.

Operative words.

2. Surrenders are of two kinds, surrenders at common law, and surrenders by custom or of customary estates, (see *Mortgage of Copyholds and Purchase Deeds*.) By the Stat. of Frauds, no lands not being copyhold or customary shall be surrendered, unless it be by deed or note in writing, signed by the party surrendering the same, or his agent duly authorized. When made upon sale or mortgage of lands, there must be an *ad valorem* duty upon the consideration money, otherwise only a deed stamp of 1*l.* 15*s.* together with the progressive duty of 1*l.* 5*s.*

Two kinds.

Surrenders must be made in writing.

3. The merely cancelling a lease, is not a surrender within the Stat. of Frauds; neither is a recital, in a second lease, granted in consideration of such surrender, within that statute, which requires it to be done by a note in writing, and consequently, the prior lease may be set up by a tenant, in bar of an ejectment by a remainder-man; *Roe v. Archbp. of York*, 6 E. 86.

Cancelling a lease not a surrender.

4. All persons capable of alienating lands, may surrender any particular estate therein; also, by the Stat. 29 G. II. c. 31, amended by the 1 W. IV. c. 65, infants by their guardians, lunatics by their committees, and *femes covert* by their attorneys, may surrender leases for the purposes of renewal.

Who may surrender.

5. Any kind of estate for life may be surrendered, but not an estate in fee simple or fee tail; so likewise, surrenders may not be made of rights or titles of estates for life or years, but it must be of the possession itself; Shep. Touchst. 309.

What may be surrendered.

6. To make a surrender good, the person who surrenders must be in possession, and he to whom the surrender is made, must have a greater estate immediately in reversion or remainder in which the estate surrendered may merge; *Ibid.* 309, 2 Roll. Abr. 494. And the surrender cannot be made, if the reversion or remainder be not immediate; *Plowd.* 541; *Skin.* 263; 6 Com. Dig. 315; Livery of seisin is not necessary, because there is already a possession.

What is necessary to a surrender.

7. Where, in the face of the surrender, it does not appear certain to whose heirs the estate is ultimately to pass, it will necessarily remain in the surrenderor; *Roe v. Foster*, 9 E. 407.

Surrender of Copyholds to the Uses of a Will.

Obs. As to the surrender of copyholds, see *Purchase Deeds*, vol. ii. p. 360.

Manor of — in } *Be it remembered* that on the day
the co. of — } of A B one of the customary tenants
of the sd manor surrendered into the hands of the lord

SURRENDERS.

Copyholds by the hands and acceptance of the steward of the sd manor All, &c. with the appts to the use of such person or persons and to aud for such uses intents and purps as he the sd A B in and by his last will and testament in writing hath limited deold directed and appted of and concerning the same

(Signed)

A B

*Surrender by a Man and his Wife to the Trustees, of
their Marriage Settlement.*

Obs. As to the necessity of acknowledging this deed, see *Fines and Recoveries*, Pref. § 7.

Manor of — in } To wit the day of 18 Be
the co. of — } it remembered that the day and year
above-written E L of, &c. and S his wife (late S B
spinster) a customary tenant of the same manor (the
sd S being first solely and secretly examined by J G
gent. steward of the sd manor thereunto consenting)
did out of court according to the custom of the sd manor
surrender by the rod into the hands of the lord of the
sd manor by the acceptance of the sd steward *All that*
piece of, &c. some time since purchased of J M late of,
&c. deold held of the lord of the sd manor by copy of
court roll fealty suit of court the yrly rent of 6d and or.
services to all which sd preses the sd S B now S L was
admitted in fee on the day of To the use and
behoof of (T) their hrs and ass for ever *Upon Trust*,
&c. (here state the trusts of the settlement)

*Surrender where the ultimate Remainder goes to the
right Heirs of the Surrenderor.*

Obs. As to where, from the terms of the surrender, it is uncertain to whom the ultimate remainder will go, see Obs. 7.

Manor of B

Memorandum at this court it is presented by K B and T S two customary tenants of the lord of the manor afd upon their oaths that I L out of court to wit on day of now last past came before them the sd R B and T S and by their hands surrendered into the hand of the lord of the manor afd according to the custom of the sd manor *All*, &c. in B afd in the tenure of the afd I L to the use and behoof of I L and I L the younger for and during the term of their natural lives and the life of the longest liver of them and after their deceases to

the use of the heirs of the body of the sd I L the younger son of the sd I L for ever and for default of such heirs to the use of the right hrs of the sd I L the elder for ever to which sd I L the younger the lord of the sd manor by the hands of his steward granted the same, &c. *Copyholds*

Surrender out of Court by a Widow, in favour of her Children, and admission of the Eldest Son, an Infant, to his Share by his Guardian.

Manor of G

At a court holden on day of at this court the homage upon their oath present a surrender out of court made by (*widow*) widow (late one of the customary tenants of the sd manor) by the acceptance of a headborough in the presence of three customary tenants of the same manor in these words following to wit Manor of H alias H rectory in the county of N *Be it remembered* that (*widow*) one of the customary tenants of the sd manor according to the custom of the sd manor surrendered into the hands of the lord of the sd manor by the rod by C D headborough in presence of E F and G all customary tenants of the same manor *All* her messes, &c. with their and evy of their apts holden of the sd manor situate, &c. To the end that the lord shall regrant the same to her three children that is to say to I *all those*, &c. to C *all those*, &c. and to M *all those*, &c. in testimony whereof the sd headborough and tenants have hereunto set their hands the day and year above-written And they furr present that the sd surrender was presented by the homage (according to the custom of the sd manor) at a general court baron held for the sd manor on the day of now last And now at this court came the sd I the son being an infnt of the age of 13 yrs or thereabouts by I S gent. now admitted to be his guardian and humbly prayed to be admitted tenant to *all those*, &c. (*parcels*) according to the form and effect of the sd surrender to which sd I (by his guardian afd) here present in full court the lord of the sd manor by his sd steward did grant seisin thereof by the rod *To Have and to Hold* the sd, &c. unto the sd I according to the form and effect of the sd surrender of the lord of the sd manor afd by the rod according to the custom of the sd manor by the rents and services therefore due and of right accustomed and he gave to the lord for a fine for such his este and entry into the preses as appears in the margin and fealty was respited

Life Estate.

and so saving always the right of the lord the sd I was admitted tenant thereof in form afd And at this court the lord of the manor afd by his sd steward did assign and appt the sd I S to be guardian of the sd I during his minority to rece and take the rents issues and prfts of the preses and thereof unto him the sd I when he shall come of full age to render a full account according to the custom of the sd manor for which he pd to the lord for a fine as appears in the margin

Surrender of a Life Estate.

This Indre made, &c. Betn (surrenderor) of, &c. of the one pt and (surrenderee) of, &c. of the or. pt Whas (recite the will or deed creating the life este) Now this Indre Witnesseth that in conson of 10s. to the sd (surrenderor) by, &c. the rect, &c. he the sd (surrenderor) Hath surrendered and yielded up and by, &c. Doth, &c. unto the sd (surrenderee) his hrs and ass *All, &c.* which was limited by the sd in pt recited indre of, &c. to the use of the sd (surrenderor) during the life of him the sd (surrenderor) and every pt and pcl of the same with their and every of their rights members and appts and the revn, &c. And all the estate, &c. To the intent and purpose that the estate for life or life int of him the sd (surrenderor) may merge and be absolutely extinguished And the sd (surrenderor) doth, &c. (covt that he has done no act to incumber) *In Witness, &c.*

Surrender of a Lease for Lives.

This Indre made, &c. betn, &c. (recite a lease from the sd A B, &c. to the sd C D to hold to him for the lives of A B and two nominees) And whas the sd (nominees) have lately departed this life leaving the sd A B them surviving and the sd A B is now desirous of having a new lease of the heredita and preses to him granted for and during the lives hnaft named Now this Indre Witnesseth That, &c. in conson of, &c. pd by the sd C D to the sd A B the rect, &c. he the A B Hath surrendered and yielded up and by, &c. Doth surrender, &c. unto the sd C D his hrs and ass *All, &c.* And all the este, &c. to the intent and purpe that the sd C D may be enabled to grant a new lease of the sd prebend lands, &c. for and during the lives of such three persons as shall be nominated by the sd A B And the sd A B doth hby give up the sd in pt recited indre of lease to be cancelled (see Obs. 3) *In Witness, &c.*

Terms.

Surrender of a Term by Indorsement.

To All, &c. the within-named lessee sendeth greeting *Whas* the within mentd messe or tent hath been lately burnt down and destroyed by fire and the within named (*lessor*) hath requested the within named (*lessee*) to surrender to him the sd (*lessor*) the scite or piece or pcl of grd whereon the sd messe or tent lately stood for all the residue and remr of the term of yrs by the within-written indre granted therein now to come and unexpired to the intent that the same residue may merge and be extinguished in the este and interest of him the sd (*lessor*) in the same preses which he the sd (*lessee*) hath agrd to do *Now these Prests Witness* that, &c. and in conson, &c. he the sd (*lessee*) *Hath* surrendered, &c. and by, &c. *All that* the scite, &c. And all the este, &c. *To Have, &c.* the sd scite, &c. and all and singr or. the preses hby surrendered or intended so to be for and during the residue of the sd term of, &c. to the intent that the same residue, &c. may merge and be extinguished in the este of him the sd (*lessor*) in the same resply *In Witness, &c.*

Surrender of a Mortgage Term to merge in the Inheritance.

This Indre, &c. Betn (*termor*) of, &c. of the one pt and (*mortgagor*) of, &c. of the or. pt *Whas* (recite the mortgage creating the term) *And whas* the sd sum of £ — still remains due and owing upon the sd recited secty all int for the same having been pd up to the day of the date of these prests *Now this Indre Witnesseth* that in conson of the sum of £ — of lful, &c. in hand, &c. pd in full satisfaction and discharge of all principal money and interest now due and owing upon or by virtue of the sd in pt recited security the receipt, &c. he the sd (*T*) at the request and by the desire of the sd mortgagor testified by his being a pty to and exting these preses *Hath* assigned surrendered and yielded up and by, &c. *All* and singr the sd messes, &c. hnbefer parlarly described and which in and by the sd in pt recited indre of, &c. were granted and demised to the sd (*T*) his exs, &c. for the term of 500 yrs with the appts, &c. And all the este right title term of yrs yet to come and unexpired of him the sd (*termor*) in and to the sd messes, &c. *To Have, &c.* unto the sd (*mortgagor*) to the intent, &c. that the now residue of the sd term of 500 yrs may be merged and extinguished in the rever-

Recitals.

sion freehold and inhance of the same preses now vested in the sd (T) And the sd (T) doth, &c. covenant (that he hath done no act to incumber) In Witness, &c.

WARRANTS OF ATTORNEY.

§ 1. A warrant of attorney need not be by deed, nor does it require an attesting witness. It is usually given to two attornies, in case of the death of one before the judgment is entered up, *Todd v. Dodd*, Wilk. 312; *Fendall v. May*, 2 M. and S. 76. If it be joint, and not several, it cannot be entered up against one when the other is dead, *Gee v. Lane*, 15 E. 592. A warrant of attorney is not revocable, *Odes*, or *Oades*, v. *Woodward*, 1 Salk. 87, S. C., 2 Ld. Raym. 766; but the death of the party is *prima facie* a countermand of the authority, Co. Litt. 52 b. *Wild v. Sands*, 2 Stra. 718; *Chaney v. Needham*, *ib.* 1080; *Cowie v. Allaway*, 8 T. R. 257; unless the warrant be given at the suit of the party, his executors, administrators and assigns, *Coles v. Haden*, Barnes 44.

Stamp.

2. The same duty as on a bond for the like purpose: but where the *ad valorem* duty has been already paid upon any other instrument, for securing a mortgage, &c. or where the warrant of attorney shall be given for securing any sum of money, for which the person giving the same is in custody, then the duty of 1*l.* only.

A Warrant of Attorney to enter up Judgment to secure Payment of an Annuity.

To A B and C D attornies of his Majesty's Court of at Westminster jointly and severally.

Recital.

Whas (cognizee or grantee of the annuity) of, &c. hath contracted with me (cognizor or grantor) of, &c. for the purchase of an annuity or yrly sum of £— during the natural life of me the sd (cognizor) at or for the price or sum of £— to be issuing, &c. and upon the treaty for the sd annuity it was agrd that for better securing the payment of the sd anny I should exte such warrant of atty as hnaft expsd Now these are to desire and authorize you or either of you or any or. atty of the court of affd to appear for me the sd (cognizor) as of this present term (term next, or of any subsequent term) and then and there to file a common bail and to rece a declon for me my hrs exs or ads in an action of debt for money had and recd for the sum of £— at the suit of the sd (cognizee) his exs (a) ads or ass and thereupon to confess the same or to suffer a judgmt by *non sum informatus, nihil dicit* or orwise to pass agst me my hrs exs or ads in the same action and to have the sd judgmt

Operative part.

(a) As to the effect of these words, see Pref. § 1.

forthwith entered up agst me them or any of them on record of the sd court for the sd sum of £ — and costs of suit (a) And I the said (*cognizor*) do further authorize and empower you the sd atties or any or either of you after the sd judgment shall have been entered up for me my hrs exs or ads and in my or their name or names or as my or their act and deed or acts and deeds to sign seal and exte a good and sufficient release or releases in the law unto the sd (*cognizee*) his exs ads and ass of all and all manner of error and errors and all bent and advantage thof and all misprisions of error and errors and other defects and imperfections whatsoever in about or concerning the same and for what you my sd atties or either of you or any or. atty afd shall lfully do or cause to be done in the preses or any of them this shall be to you and them and every of you and them a sufficient warrant and authty *In Witness, &c.*

Warrant of Attorney to acknowledge Satisfaction on a Judgment for securing an Annuity.

To A B and C D, &c. *Whas* (recite warrant of atty) And *whas* I the sd (*grantee*) have received satisfaction for the same These are therefore to desire and authorize you the atties abovementd or any of you, &c. to acknge and enter satisfaction upon the record of the same judgment and for your so doing this shall be your sufficient warrant and discharge in this behalf *In Witness, &c.*

A Warrant, or Authority, to a Steward of a Manor to enter upon the Court Roll Satisfaction of Monies due on Mortgage.

To all, &c. (*mortgagee*) of, &c. sends greeting *Whas* at a court baron held for the manor of, &c. on the, &c. in the, &c. It was presented by the homage that (*mortgagor*) eldest son and hr of, &c. had at that court surrendered

(a) If a defeasance be added, then say, 'So nevras that the sd judgment so to be confessed and entered up in pursuance of these prests shall be and be considered as a collateral secty only for the better and more effectually securing the payment of the sd annty or sum of £ — to the sd (*cognizee*) on the days and times and in manner as in the in pt recited indre appted for the payment thof And so also that no exon or exons, &c.' (see vol. i. p. 70.) If the defeasance be by memorandum, then say, 'Memorandum that the above-written warrant of attorney (or, if indorsed on the warrant of attorney, 'the within-written warrant of atty') is given as a collateral security for the payment, &c. And it is intended that judgment shall be forthwith entered up in pursuance of the warrant but that no exon shall be sued out unless deft, &c. And in case deft shall be made it shall be lful, &c.'

certain copyhold lds and tents situated in the sd manor according to the custom thof to the sd (*mortgagee*) and his hrs subject to redemption on paymt of the sum of £ — with int as therein is mentd And *whas* the sd principal mortgage money with all interest due thereon has been pd and satisfied Now *know ye* That the sd (*mortgagee*) in conson of the satisfaction of the sd mtgee's debt doth hby give and grant unto (*steward*) steward of the sd manor of or any or. steward for the time being full power and authty to enter satisfaction on the court rolls of the sd manor for the principal money and interest due on the sd mortgage to the intent that the same may be vacated In *Witness*, &c.

WILLS.

Difference
between a
will and a
testament.

§ 1. In law there is a distinction between a will and testament. Where lands or tenements are devised in writing, although there be no executor named, (which is not necessary in a simple devise of lands) it is properly called a last will, (or more commonly a devise); and where it doth concern chattels only, in which case it is necessary that there should be an executor, it is called a testament, Co. Litt. 111, a. Shep. Touchst. 399. The making of an executor is necessary for the raising of a personal representative. Where no executor is named, the party is said to die intestate, *ib.* 406. A will is a voluntary conveyance, but not to take effect before the maker's death; and until that time it may be altered or revoked, either expressly or by implication; and it is in law termed ambulatory until the testator's decease.

A will is
ambulatory

What is de-
visable.

Land by
statute.

Lands con-
tracted for.

Advowson,
&c.

Trust
estates, &c.
Annuities.
Chattels.
Not com-
mons, &c.

Estates *pur*
auter vie

2. At common law no lands were devisable, except by the custom of certain burghs; but the 32 H. VIII. c. 1, and 35 H. VIII. c. 5, gave a power of devising two-thirds of lands held in chivalry, and the whole of those held in socage; and as by the 12 Car. II. c. 24, all lands are turned into free and common socage, a man may now dispose of all his real estate by will, including every species of real property, whether corporeal or incorporeal. Not only lands that are in possession, but also such lands as have been contracted for by the testator, may be the subject of a devise, *Broome v. Monck*, 10 Ves. 597; and, by the 1 Will. IV. c. 60, s. 15, 17, the vendor in such case will be a trustee for the devisee, and a conveyance may be obtained under the provisions of the Act. By the devise of an advowson the next presentation passes, 3 Bulst. 36. So the next presentation is devisable, *Law v. The Bishop of Lincoln*, 2 Bl. 1240; so tithes of which a man is seised in fee, *Swinb.* 140; so trust estates, 2 P. Wms. 258, 6 Cru. Dig. 24; so contingent, springing, and executory interests, *Selwin v. Selwin*, 2 Burr. 1131; *Doe v. Jones*, 3 T. R. 88; so an annuity in fee, Co. Litt. 144; so chattels real with the consent of the executor, *Plowd.* 525; but commons *sans nombre* are not devisable, Cro. El. 359; nor franchises which are not of an annual value, Co. Litt. 111; nor offices annexed to the person, *Pow. on Dev.* c. 3. Estates *pur auter vie* could not have been devised

before the 29 Car. II. c. 3, s. 12; nor copyholds without a previous surrender made to the uses of the testator's will, before the 55 G. III. c. 192; and now, if the testator be a devisee of the copyhold estates, he still cannot devise them unless he be first admitted, *Wainwright v. Ethwell*, 1 Madd. 627; and a *feme covert* cannot devise her copyholds without making a previous surrender to the uses of her will, *Doe v. Bartle*, 5 B. and A. 492; 1 D. and R. 81.

3. All persons generally, not under any legal disability, may make wills. A *feme covert* cannot make a will without a particular licence from her husband, Dr. and Stud. d. l, c. 7, 2 Comm. 497, except where she has a disposing power under a settlement, *Wright v. Englefield*, Amb. 468, or where she has a separate power over her estate, *Ross v. Ewer*, 3 Atk. 160. So a wife may dispose of personal property, given to her for her separate use, by her will, for *jus disponendi* is one of the incidents of a separate enjoyment, *Fettiplace v. Georges*, 3 B. C. C. 9, 1 Ves. Jun. 46; and where she has such power over the principal it extends also to its produce, *Gore v. Knight*, 2 Vern. 535; so also she may make a will of effects which she possesses in *auter droit*, Offic. Ex. 280, Com. Dig. tit. Devise, [H. 5.] An infant, under the age of 21 years, cannot devise his lands, 1 Sid. 162, being expressly excepted by the 34 and 35 H. VIII.; nor his goods and chattels under the age of discretion; that is, a female under 12, and a male under 14. Com. Dig. tit. Devise, [H. 5.] Idiots and lunatics are disabled from making a will, yet a will made during a lucid interval will be valid, *White v. Driver*, 1 Phill. 84; *Cartwright v. Cartwright*, *ib.* 90. A person born deaf, dumb, and blind, is incapable of making a will, Co. Litt. 42, *a.* unless he give evidence of some capacity to understand, *Dickenson v. Blissett*, 1 Dick. 268. A traitor, from the moment of his attainder, cannot make a will, either of his lands or goods, 4 Comm. 381; nor a felon of his goods and chattels, from the time of his conviction, *ib.* 384; so likewise the will of a *felo de se* is inoperative, as to his goods and chattels, Plowd. 261. 4 Bac. Abr. 247; so that of outlaws, because they forfeit every thing to the king, *Pain v. Teap*, 1 Salk. 109. Aliens are incapable of acquiring any property in lands, but they may, with the king's licence, dispose of their goods and chattels by will, 1 Comm. 372. 1 Woodes. 374. Corporations cannot devise the lands or goods of the corporation, Com. Dig. tit. Devise [H. 5, 6]; so a joint tenant cannot devise the lands which he holds jointly, for the 34 H. VIII. expressly excludes joint tenants; so the will of a joint tenant, though the tenancy is severed before his death, unless he republish his will, *Swift v. Roberts*, 1 Bl. 476. Com. Dig. tit. Devise H.

4. A married woman may be the devisee of her husband, because the devise does not take effect until the death of the husband, 2 P. Wms. 258. 6 Cru. Dig. 24. And it is now settled, that a devise to an infant *en ventre sa mere* is good, *Gulliver v. Wickett*, 1 Wils. 105; *Lancashire v. Lancashire*, 5 T. R. 49. So an illegitimate child may be the object of a devise, where he is described by his name of repute, *Cartwright v. Vaudry*, 5 Ves. 530; *Hart v. Durand*, 3 Anst. 684; but as he can have no heirs but of his own body, and lands given to him in fee would escheat if he died without issue, it is usual, either to devise to him in tail, or to limit the estate to him for life with a power of appointment. Bodies corporate, though disabled by the 34 and 35 H. VIII. from taking by devise, were held capable of taking to charitable uses before the 9 G. II, c. 36, which makes all such devises void, except such as shall be made to the two Universities, and the colleges of Eton, Winchester, and Westminster; and the 43 G. III. c. 107, extends the exception to the Governors of Queen Anne's Bounty. Aliens may take by a devise, but the lands will

nor copyholds by statute.

Who may and may not devise.

Feme covert.

Infant.

Idiots and lunatics.

Traitor.
Felon.

Felo de se.
Outlaws.

Aliens.

Corporations.
Joint tenants.

Who devisees.

Infant
en ventre sa mere.
Illegitimate children.

Corporations.

Aliens.

belong to the king: they do not, however, vest in the king until office found, 1 Pow. on Dev. c. 7.

How
executed.
Requisites
by Statute.
To be
written.
Signed.

Attested

by credible
witnesses.

Will of
chattels.

Nuncupa-
tive will.
Requisites
to, by
statute.

Publication
of wills.

5. Wills may be either in writing or nuncupative, that is, by word without writing. By the 34 and 35 H. VIII., and subsequently by the Stat. of Frauds, several formalities are requisite to a devise; as first, that it be written, but on what matter, or in what language, is not material, provided the meaning be apparent, *Masters v. Masters*, 1 P. Wms. 425. 6 Cru. Dig. 49. 2ndly, That it be signed by the party himself, or some other in his presence and by his express direction. Sealing is not necessary to a will, signing being sufficient, *Smith v. Evans*, 1 Wils. 313; but the testator's name may be written in any part of the will, 3 Lev. 1, *Grayson v. Atkinson*, 2 Ves. 454; it must, however, be written in all the sheets of the paper, if the deviser intend to sign the instrument in form, otherwise it will not be a signing within the statute, *Right v. Price*, Dougl. 229. 3rdly, It must be attested by three witnesses in the presence of the testator, or at least within his view, 2 Salk. 688, but all the witnesses need not attest at the same time, Anon. Chan. Ca. 109; *Cook v. Parsons*, Prec. Ch. 184. Wills and codicils must be separately attested by three witnesses, *Lee v. Libb*, Rep. Temp. Holt. 742; but this is not necessary when the will consists of several wills made at different times, *Carlton v. Griffin*, 1 Burr. 549. The witnesses must by the statute be credible, but by the 25 G. II. c. 6, devisees and legatees under a will are not competent witnesses thereto, the devise so far as concerns them being declared void; creditors however are by the same statute made competent witnesses. It has likewise been determined that a will was well attested, though one of the witnesses was an executor in trust under the will, *Phipps v. Pilcher*, or *Pitcher*, 1 Madd. 144. S. C. 6. Taunt. 220. A written will of chattels needs neither seals nor witnesses, but is good, provided that sufficient proof can be had that it is the testator's handwriting, Godolph. Orp. Leg. p. 1. c. 21. Gillb. Rep. 260; or that it has been written according to his instructions, Com. 452. 2 Comm. 502; *Lewis v. Lewis*, 3 Phill. Rep. 113; unless from the omission of these formalities, a change of intention on the part of the testator may be presumed, *Matthews v. Warner*, 4 Ves. 186; *Walker v. Walker*, 1 Mer. 503. Two witnesses to a will of money in the funds are required by the 35 G. III. c. 14. A nuncupative will is when the testator, without any writing, doth declare his will (as to his personally only) before a sufficient number of witnesses, Shep. Touch. 400. Swinh. 58. But by the Stat. of Frauds, 29 Car. II. c. 3. s. 5, *et seq.*, and also 4 and 5 A. c. 16, s. 14, many restrictions are imposed upon this kind of wills: where the estate exceeds the value of 30*l.* no nuncupative will shall be good, that is not proved by the oaths of three witnesses at least (who by the 4 and 5 Ann. c. 16, must be such as are admissible on trials at common law) nor unless made in the last sickness of the deceased. No nuncupative will shall be proved after six months from the time of speaking the words, unless it were put in writing within six days; nor shall it be proved until fourteen days after the death of the testator, nor until process shall have first issued to call in the widow or next of kin to contest it, if they think proper. Copyholds are not within the Statute of Frauds requiring the attestation of three witnesses to a will. They will pass although there be no witness at all, *Atty Gen. v. Barnes*, 2 Vern. 597; *Atty Gen. v. Andrews*, 1 Ves. 224. Even a nuncupative will, before the Statute of Frauds, was an effectual declaration of the uses, where the surrender was silent as to the form, *Tuffnell v. Page*, 2 Atk. 37.

6. Publication is another requisite to the validity of a will; that is, the testator must do some act from which it may be concluded, that he intended the instrument to operate as his will, *Ross v. Ewer*,

5 Atk. 161. But the words 'signed and published by the said A B as and for his last will and testament,' amount to a publication, *Peate v. Ougley*, Com. 196; *Trimmer v. Jackson*, 4 Burn's Ecc. L. 119. If a man devise all his lands in A. and afterwards purchases other lands there, they will not pass by the will, although it may contain the words 'All the lands of which he may die seised at the time of his death;' but if he make a new publication of his will it is sufficient to pass them, *Beckford v. Parnecott*, Cro. Eliz. 493; *Stead v. Berrier*, Sir T. Jo. 135. Com. Dig. tit. Devise, [E. 2.] Watk. Prin. Prest. Ed. 248; and personal estate purchased afterwards shall pass without a republication, *Wind v. Jehyll*, 1 P. Wms. 575; *Harwood v. Goodright*, Cowp. 90.

7. A will may be altered or revoked by the testator at any time, either expressly or by implication. Before the Stat. of Frauds, devises of land might have been revoked by words only; but now, by s. 6 of that statute, a will may be expressly revoked in three ways: 1st, By a subsequent will, or codicil, duly executed according to the Statute; but unless the second will contains a clause of revocation of all former wills, or makes some disposition inconsistent with the former will, it cannot operate as a revocation, *Harwood v. Goodright*, Cowp. 87. S. C. 3 Wils. 497; *Atty Gen. v. Lloyd*, 3 Atk. 552. 2dly, By any declaration in writing that the testator meant to revoke his will, if signed in the presence of three witnesses, *Hilton v. King*, 3 Lev. 86, but the witnesses are not required to sign in his presence, *Onions v. Tyrer*, 1 P. Wms. 343. 3rdly, By cancelling, tearing, burning, and obliterating; but this must be proved to have been done *animo cancellandi*, 1 Ab. Eq. 409, and to have been carried into full effect, *Doe v. Parkes*, 3 B. and A. 489; but any act shewing such intention will operate as a revocation, although the will be not actually cancelled, *Bibb v. Thomas*, 2 Bl. 1043. A partial obliteration, however, operates as a revocation only *pro tanto*, *Sutton v. Sutton*, Cowp. 812; *Winsor v. Pratt*, 2 B. and B. 650; *Larkins v. Larkins*, 3 B. and P. 16, 109. When there are duplicates of a will, and the testator cancels the one in his possession, this is a cancelling of the other, *Burtonshaw v. Gilbert*, Cowp. 49. By s. 22 of the same statute, no will in writing concerning personal estate shall be revoked by words only, unless they be committed to writing in the lifetime of the testator, and read over to him and allowed by him, and proved to be so done by three witnesses at the least. Revocations may also be implied by alterations in the situation of the testator, as marriage, and the birth of a child, *Lancashire v. Lancashire*, 5 T. R. 49, but not the birth of a child only, *Doe v. Barford*, 4 M. and S. 10; and it may be rebutted by every sort of evidence, even parol evidence, *Brady v. Cubitt*, Dougl. 59. A woman's will is revoked by marriage, *Forre and Hembling's Case*, 4 Co. 61; *Doe v. Staple*, 2 T. R. 697, 1 Pow. on Dev. c. 13; *Hodden v. Lloyd*, 2 B. C. C. 533. Alienation of an estate will also operate as a revocation of a prior devise, *Brydges v. D. of Chandos*, 2 Ves. Jun. 417; *Goodtitle v. Otway*, 7 T. R. 399; so an intended alienation, *Shove v. Pinche*, 5 T. R. 124; so an agreement to convey, *Rider v. Wager*, 2 P. Wms. 352; *Vauver v. Jeffrey*, 16 Ves. 519; and not to be rebutted by parol evidence of the testator's intention, *Goodtitle v. Otway*, 2 Ves. Jun. 606; so the surrender of a lease for lives and taking a new lease, *Marwood v. Turner*, 3 P. Wms. 165; but not a partition, *Risley v. Balinglass*, Sir T. Raym. 240, unless it extends to other purposes, *Parsons v. Freeman*, 1 Wils. 509; nor a mortgage in fee in equity, (although it is in law) *Hall v. Dench*, 1 Vern. 329, unless made to the devisee, *Harkness v. Bayley*, Prec. Ch. 514. A conveyance for payment of debts will operate only as a partial revocation, *Vernon v. Jones*, Prec. Ch. 32.

Revocation
of a will.

How
effected.

As to per-
sonalty.

Implied re-
vocations.

By mar-
riage.

By alien-
ation;

but not by
partition,
or mort-
gage.

Republication.

8. A will may be republished by re-execution, *Herbert v. Torball*, 1 Sid. 162, provided it be attended with the same formalities as are necessary to the first publication, *Potter v. Potter*, 1 Ves. 440; so a codicil, duly executed, will operate so as to pass after-purchased lands, *Goodtitle v. Meredith*, 2 M. and S. 5, but not where the codicil is confined to the lands devised by the will to which it is annexed, *Strathmore v. Bowes*, 7 T. R. 482. S. C. 2 B. and P. 500; so cancelling a second will republishes the first, *Goodright v. Glasier*, 4 Burr. 2512.

Provisions and clauses in a will.

9. Many provisions and clauses in settlements are also usually inserted in wills, as clauses of survivorship, powers to trustees, appointment of and indemnity to trustees, &c. see *Settlements*, Pref. § 5, and the *subsequent Precedents of Wills*. Some provisions may be inserted in a will which would not be necessary or good in a deed, or at least not liable to the same construction. It is usual to make provision in wills for the payment of debts. A general provision only will be necessary, unless the testator wish to exempt his personal estate, which is considered the proper and primary fund, and cannot be exempted without a declaration in express terms, *Thomas v. Britnell*, 2 Ves. 315; *Williams v. Chitty*, 3 Ves. 545. At common law, the heir was not bound to pay the debts of the ancestor only in respect of assets which descended to him, and the ancestor might defeat his specialty creditors by devising away his estates, until the 3 and 4 W. and M. c. 14, which made such devises void as to creditors. By the 47 G. III. st. 2, c. 74, amended and enlarged by the 11 G. IV. and 1 W. IV. c. 47, the freehold lands of a trader were made liable to his debts of simple contract, and by the 3 and 4 W. IV. c. 104, all lands, both copyhold (which had not heretofore been liable,) and freehold belonging to all persons without distinction, are made assets for the payment of debts both by specialty and simple contract. When a testator forgives a debt, it will not be good against a creditor, although as against an executor it may, *Sibthorpe v. Mosom*, 3 Atk. 580.

Legacies.
Specific
general.

Legacies and bequests are either specific or general. A sum of money may be sufficiently distinguished to be the subject of a specific legacy, but the courts are averse to construing legacies to be specific unless they are expressly so given, or must be so necessarily by implication, *Evans v. Tripp*, 6 Madd. 91. Where no time is mentioned for the payment of a legacy, the executor has one whole year before he can be compelled to pay, except it be a specific donation, 3 Atk. 66. If a legatee die in the lifetime of the testator, the legacy is a lost or lapsed legacy, *Dyer*, 56, although left to his executors or assigns, *Bridge v. Abbot*, 3 B. C. C. 224; but this may be provided for, so as to prevent the lapse, by the express declaration of the testator, *Sibley v. Cook*, 3 Atk. 572. Where a devise or bequest is made generally, it becomes a vested interest at the death of the testator, but a devise to one *when* he shall attain the age of 21, gives him a vested interest immediately after the death of the testator, to take effect in possession on his attaining that age, and to go to his heirs if he die before he attain that age; but where the devise is to one, *if* he shall attain the age of 21, the word 'if' makes it a condition precedent, and no interest vests unless he attain that age. And the like is the case of a legacy to be paid *when* the party attains the age of 21, that is a vested legacy; but if the legacy be to be paid *if* the legatee attain the age of 21, it is not vested, *per Ashurst J. in Doe v. Lea*, 3 T. R. 43, a distinction which, though important, is frequently lost sight of by unprofessional persons in making their own wills.

Portions.

When portions are given by will, care should be taken to define whether a sum of money given in the lifetime of the testator on the marriage of a child, or otherwise, should be considered as an

ademption or satisfaction of the portion mentioned in the will. The court leans strongly against double portions, and has on more than one occasion held such a payment to be an ademption, *Copley v. Copley*, 1 P. Wms. 147; *Hartop v. Whitmore*, 1 ib. 681; *Farnham v. Phillips*, 2 Atk. 214. At law, an executor is entitled to the residue of a testator's personal estate after the payment of debts and legacies, *Wilson v. Ivat*, 2 Ves. 166; but a court of equity sometimes construes a trust to arise for the benefit of the next of kin, *Bagwell v. Dry*, 1 P. Wms. 700. A clause of indemnity to trustees, particularly where they are also executors, is necessary in a will, because the rule is, that if two executors join in a receipt, and one only receives the money, they are both answerable, *Fellowes v. Mitchell*, 1 P. Wms. 81. Whether an annuity shall determine on the bankruptcy of the annuitant, under the proviso against assignment, depends entirely on the intention expressed by the testator. Where it was directed that the money should be paid into the hands of the annuitant, and not his assigns, it has been held, that the annuity did not vest in the assignees of the annuitant; *Cooper v. Wyatt*, 5 Madd. 482. In order to authorize a sale, a power ought to be given to the executors or trustees in express terms, or be necessarily implied from the circumstances of the case, as where the payment of debts and legacies are expressly required. So a direction or power to raise money out of the rents and profits is held to authorize a sale; *Green v. Belcher*, 1 Atk. 505; unless where, from the terms of the will, a contrary intention can be inferred; *Small v. Wing*, 5 B. P. C. 66. Any words, however informal, denoting an intention to give or reserve a power, will be sufficient; *Habergham v. Vincent*, 2 Ves. jun. 204. And it may be reserved to be executed by a will unattested or attested by only two witnesses; *Day v. Thwaites*, cited 3 Ch. Ca. 69; *Wilkes v. Holmes*, 9 Mod. 485; but a man cannot reserve such a power to himself by his own will, because that would be an evasion of the Statute of Frauds, 2 Ves. jun. 204. And when the mode in which the instrument is to be executed is not defined, it must be executed as the statute prescribes, 9 Mod. 485. A power cannot be executed by general words in a will; *Langham v. Nenny*, 3 Ves. 467; but where there is nothing in the will to operate upon, except the subject of the power, it will be taken to be an execution of the power; *Standen v. Standen*, 2 Ves. jun. 589. Some reference must be made in a will, as in a deed, to the power, but it need not be expressly recited, *Ex parte Caswall*, 1 Atk. 559. A power to appoint to children will not authorize an appointment to grandchildren; *Alexander v. Alexander*, 2 Ves. 642; *Bristow v. Ward*, 2 Ves. jun. 336. As to a power of appointment, see further *Appointment*, Pref. § 5, *et seq.* A will made in execution of a power is ambulatory until the death of the testator; *Lawrence v. Wallis*, 2 B. C. C. 319. Wills are generally construed from the making, unless circumstances or the tenor of the will shew that the construction should be with reference to the death of the testator, 1 Rob. on Wills, 333; thus where an annuity is given, the will of a testator is held to speak from the time of his death, and in the absence of a particular direction it will be computed to commence from the testator's death, and be payable at the end of the year; *Gibson v. Bott*, 7 Ves. 96; *Houghton v. Franklin*, 1 Sim. and Stu. 390.

Annuity.

Ademption.

Residue to executors.

Indemnity clause.

Power of sale.

Power of appointment.

10. Although the same strictness of expression is not necessary in wills as in deeds, 2 Comm. 381, yet too much care cannot be taken to pursue the descriptions which the law has given, and give technical terms in a technical sense, Watk. Prin. Prest. Ed. 248. A devise will be most favourably expounded to pursue, if possible,

Construction of wills.

Words in a will giving a fee.

Fee tail.

Estate for life.

Limitations in deeds and wills.

Executory devises.

the will of the devisor. Words of inheritance are not necessary in a will, as in a deed, to give a fee. The word 'estate' is sufficient to pass a fee-simple; *Barry v. Edgeworth*, 2 P. Wms. 523; *Randall v. Tuckin*, 6 Taunt. 410, S. C. 2 Marsh. 113, unless restrained by other words; *Doe v. Buckner*, 6 T. R. 610; *Bruce v. Bainbridge*, 2 B. and B. 123. So the words, 'all the rest and residue of my estate'; *Tanner v. Wise*, 3 P. Wms. 295; *Shaw v. Bull*, 12 Mod. 596. So, 'all my property, personal and real, for ever'; *Doe v. Roper*, 11 E. 512. The words 'heirs of the body,' which are necessary in a grant to create an estate tail, are not necessary in a devise. Any words denoting an intention to give an estate tail will pass an estate tail, as, 'a devise to a man and his issue,' or 'to a man and his children'; *Wild's Case*, 6 Co. 16, Co. Litt. 274. So likewise words of limitation and words of purchase are more strictly construed in deeds than in wills. In a deed, the word 'issue' is always a word of purchase; but in a will it is either a word of purchase or of limitation, as will best answer the intentions of the testator; *Doe v. Collis*, 4 T. R. 294. And in order to give effect to the devisor's general intent, the court will overlook a particular intent inconsistent therewith; *Doe v. Applin*, 4 T. R. 82; therefore neither the devise of an express estate for life to the first taker, nor the interposition of a devise to trustees to preserve contingent remainders, if followed by a limitation to the heirs of his body, will prevent him from taking an estate tail, and the courts have never departed from this rule, except where the intent has appeared so plainly to the contrary that no one could misunderstand it; *Peole v. Peole*, 3 B. and P. 620, Fearn. Cont. Rem. 290. It is however settled that in devises, as in deeds, if no words of limitation are added, the devisee can only take an estate for life; *Denn v. Gashin*, Cowp. 659; *Medlicott v. Jortin*, 2 B. and B. 632. But an estate may pass in a will by mere implication, without any express words; as where a man devises lands to an heir after the death of a wife, it has been held that the wife shall take an estate for life, 1 Ventr. 376, 2 Comm. 381. And it is a rule in the construction of wills, that the heir at law is not to be disinherited without positive words, or a plain intention of the testator to be collected from the words of the will; *Doe v. Bell*, 8 T. R. 582. By the rules of common law, no remainder can be limited after an estate in fee simple, nor a freehold be created to commence *in futuro*; but the courts have relaxed in the application of these rules to devises, in order to support the will of the testator. There is, therefore, now a considerable distinction between limitations in deeds and in wills. What is called a contingent remainder in a deed, is construed to be an executory devise in a will, which differs from the former in several particulars; an executory devise, does not want any particular estate to support it, in the same manner as a contingent remainder, for by a devise, a freehold may pass without corporeal tradition or livery of seisin, consequently, trustees to preserve contingent remainders are not wanted in a will as in a deed. Likewise, an executory devise may be limited after a fee, as where a man devises land to A and his heirs, but if he die before the age of 21, then to B and his heirs; this remainder, which is void in a deed, will be good by way of executory devise; *Gulliver v. Wicket*, 1 Wilson, 105. *Doe v. Welton*, 2 B. & P. 325; so by an executory devise, a term of years may be given to one for life, and afterwards limited over in remainder to another, which cannot be done in a deed; *Manning's Case*, 8 Co. 95; *Lampet's Case*, 10 Co. 106; *Waincurright v. Cartwright*, 1 Burr. 282. But an executory devise must vest within the compass of a life or lives in being, and 21 years after; *Thellusson*

v. Woodford, 1 N. R.; therefore a devise, after a general or indefinite failure of issue, is void, as being too remote; *Burford v. Lee*, 2 Freem. 210; but in respect to freeholds, the words 'dying without issue, or, without leaving issue,' are construed to mean dying without issue generally, so that there may be a failure of issue at any time; but in respect to personalty, the same words are construed to mean, a dying without leaving issue at the death of the testator, in order to support the devise over, it being a rule, that the intention of a testator is not to fail because it cannot take effect to its full extent; *Atkinson v. Hutchinson*, 3 P. Wms. 261; *Wilkinson v. South*, 7 T. R. 555; *Dansey v. Griffiths*, 4 M. & S. 61. During the term which the law allows for the estate to be suspended from vesting absolutely in some person, any accumulation of the rents and profits might formerly be made; *Thelhuson v. Woodford*, 4 Ves. 227; 11 Ves. 112; but now, by the 39 & 40 G. III. c. 98, the power of settling and devising property for the purpose of accumulation, is restricted to twenty-one years after the death of the grantor or testator. This statute has been held to refer only to the interest, and that the principal remains the same as before the statute; *Haley v. Bannister*, 4 Madd. 275; and also that a trust by will, for accumulation beyond the period allowed, is void only for the excess; *Griffiths v. Vere*, 9 Ves. 127. *Longdon v. Simpson*, 12 Ves. 295. Fearn. Conting. Rem. 541. Household goods, family pictures, and other things, may now, by the same rule, be bequeathed to one for life with remainder to others, and they will descend in the nature of heir-looms; *Vachel v. Vachel*, 1 Ch. Ca. 130. *Marshall v. Blew*, 2 Atk. 216; but they cannot be made unalienable by any direction of the testator, beyond a life or lives in being, and twenty-one years after; *Beaucherc v. Dummer*, 2 Atk. 307; *Foley v. Burnell*, 1 B. C. C. 274; *Bull v. Pritchard*, 1 Russ. 218. A devise to a plurality of persons, creates a joint-tenancy; *Oates v. Jackson*, 2 Stra. 1172; *Rose v. Hill*, 3 Burr. 1882; but any words which denote an equality, create a tenancy in common, as 'equally to be divided,' 'share and share alike'; *Doe v. Laming*, 2 Burr. 1100; *Hanchet v. Theobald*, 3 Mod. 104. Cross remainders may likewise be implied in a will, although not in a deed; *Green v. Stevens*, 17 Ves. 64; but the presumption of law is in favour of raising cross remainders between two only, and against raising cross remainders between more than two; but this presumption, in either case, may be rebutted by manifest circumstances of intention apparent on the face of the will; *Perry v. White*, Cowp. 77. As to the designation of the persons who are objects in the will, a devise may be described by the word 'heir'; *Burchet v. Durdant*, 2 Vent. 311; *Goodright v. White*, 2 Bl. Rep. 1110. The word 'issue,' comprehends children and grandchildren, unless it appears to be the intention of the testator to restrict the sense; *Davenport v. Hanbury*, 3 Ves. 258; *Sibley v. Perry*, 7 Ves. jun. 522; *Leigh v. Norbury*, 13 Ves. 340; and the words 'child,' 'son,' or 'issue,' will mean legitimate children, unless it appear from the will, that the testator meant illegitimate children; *Wilkinson v. Adam*, 1 Ves. & B. 44. A simple bequest to 'children,' has been extended to grandchildren; *Royle v. Hamilton*, 4 Ves. 437. Relations are construed to mean relations according to the Statute of Distributions; *Edge v. Salisbury*, Ambl. 70; *Doe v. Over*, 1 Taunt. 263; and descendants, mean all who descend from the body of the person who is the head or stock; *Wright v. Athyns*, 17 Ves. 255; as to what passes under particular words in a will, copyholds, since the 55 G. III., will pass under a general devise of 'lands;' but not leaseholds; *Rose v. Bartlett*, Cro. Car. 292; *Thompson v. Law-*

Trusts of accumulation restricted.

Entailing furniture, &c.

Joint-tenancy.

Tenancy in common.

Cross remainders.

Designation of persons heir.
'Issue.'

'Children,' legitimate.

'Relations.'

'Descendants.'

'Lands.'

'Mortgages.'

'Ground-rent.'
'Farm.'

'Stock in trade.'

'Household furniture.'

ley, 5 Ves. 476, unless aided by other words, denoting the intention of the testator; *Hariley v. Hurle*, 5 Ves. 540. Under the devise of mortgaged estates, the whole benefit will pass to the devisee; *Attorney Gen. v. Meyrick*, 2 Ves. 44; unless restrained by other words; *Wilkinson v. Merryland*, Cro. Car. 447. By a devise of ground-rent, a reversion will pass; *Maundy v. Maundy*, 2 Str. 1020. Land occupied with a house, will pass by the word 'appurtenances'; *Doe v. Martin*, 2 Bl. Rep. 1148. The word 'farms' will be taken in its proper acceptation, *Goodtitle v. Southern*, 1 M. & S. 299; and a devise to an executor of 'stock on my farm,' will carry standing crops from the devisee of the land; *West v. Moore*, 8 E. 339. As to the words 'stock in trade,' where there is nothing peculiar in the case to determine the import of the phrase, the popular use of the words will govern the interpretation, *ib.* Under the words 'household furniture,' plate, linen, and china, but not books, will pass; *Kelly v. Poulet*, Amb. 605; *Porter v. Tournay*, 3 Ves. 311. Under the words 'household furniture and effects,' will pass all property in the house or premises intended for use or consumption therein; *Stuart v. Marquis of Bute*, 11 Ves. 662. See further, as to wills, *Powell on Devises*, *Roberts on Wills* and *Worthington on Wills*.

Bequest of Household Furniture, Pictures, &c. strictly entailing them.

Obs. As to how far personal chattels can be entailed, see Pref. § 10.

I do hereby give and bequeath all and singr the books pictures china and all or. household goods and furniture of every kind which shall be in and about my mansion-house at afd to my brother-in-law I P and my son I S and their exs and ads *Upon Trust* that they shall immly after my dece or as soon as may be conveniently cause an inventory to be made and taken of the preses so given and bequeathed to them *And upon this furr Trust* to permit my eldest son G S to use and enjoy the sd books pictures linen china and household goods and furniture during his natural life And from and after his dece *Then in Trust* to permit and suffer the same preses to be used and enjoyed by the eldest or only son for the time being of the sd G S until such eldest or only son or some or one such son shall first attain the age of 21 yrs or die leaving issue male of his body living at the time of his death whichever shall first happen And then *in trust* for such son first attaining the age of 21 yrs or dying leaving issue male as afd his exs ads and ass and if there shall be no son of the sd G S or there being sons they shall all die before any of them shall attain the age of 21 yrs witht leaving male issue of his or their body or bodies lfully begotten living at his or their dece or respive deces *Then in Trust* to permit and suffer my sd son I S to use and enjoy (as before) *Then upon trust* to permit and suffer

the same preses to be used and enjoyed by my third son R S his first and or. sons by my fourth son F S his first and or. sons for such estes and ints in such and the same order succession manner and form as the same preses are hnbefe given And if there should be no son of the sd F S or there being such son or sons he or they shall all die, &c. *Then upon Trust* to permit and suffer the same to be used and enjoyed by such psn or psns as shall for the time being be entitled to the sd mansion

Codicils

Request to the Minister and Churchwardens of a Parish, for the Benefit of Poor Widows.

Obs. As to charitable bequests, see Pref. § 4.

And I do hby give and bequeath unto the minister and churchwardens for the time being at my dece of the parish of the sum of £ — *In Trust* to invest the same in their names in some or one of the public stocks or funds of Gt Britain *To the intent* that the int divds and annual income thereof may be a perpetual fund for the relief and bent of such poor widows residing in and belonging to the sd parish who shall not for the time being rece parochial relief And for that purpe that the minister, &c. for the time being of the sd parish of do and shall on in evy yr pay and divide such divds and annual income to and among such poor widows in such manner and in such shares and proportions as they the sd (M), &c. shall think proper And I do hby direct that the rect or acknowledgment of the sd (M), &c. shall be a sufficient discharge for the sd sum

A Codicil to a Will.

This is a codicil to the last will and testmt of me A B bearing date, &c. and which I desire may be considered as pt of my sd will *Whas* since making my sd will I have purchased an este of inhance consisting of now I do give and devise the same este and preses with the apts unto (*trustees*) the trustees in my sd will named and their hrs upon the same trusts and for the same ends intents and purps as or. my estes situated at are thby devised to them *And whas* since the making my sd will J F one of my exs therein named has departed this life now I do hby appt C R F of, &c. to be an exr of my sd will in the room and stead of the sd J F decd and to act in conjunction with the or. of

Devises. my exs in my sd will so named Also I give and bequeath unto the sum of £ — each, &c. *In witness* whof I the sd A B have to this my codicil set my hand and seal this day of in the yr of our Lord

A. B. (L S)

Signed sealed published and declared by the sd testator A B as and for a codicil to be annexed to his last will and testmt and to be taken as pt thof in the presence of us	}	R. L.
		A. M.
		T. B.

Devise of an Advowson. (a)

And I do hby give and devise unto the sd (*trustees*) their hrs and ass for ever all my advowson donation and right of patronage of in and to the rectory and parish church of in the co. of which I lately purchased of the present incumbent there *Upon the trusts* nevss hnaft expssd and decl'd concerning the same that is to say *In trust* that they the sd (T) or the survor of them his hrs or ass do and shall present my son to the sd church when the same shall become vacant by the death resignation or cessation of the sd if my sd son shall be then capable of being instituted and inducted therein and in case my sd son shall not then be capable of accepting and holding the sd benefice then *in trust* that they the sd (T) or the survor, &c. shall present thereto some fit person under confidence to resign (*b*) the same upon request to the intent that my sd son when capable may be presented thereto and my will is that my sd (T) or the survivor, &c. shall then require such resignation and present my sd son to the sd church *And upon this furr trust* that when my sd son shall have been instituted and inducted to the sd rectory and church of E afd or in case my sd son shall not at such age think fit to take upon him the holy order of priesthood then and in either of the sd cases the sd (T) or, &c. his hrs or ass shall upon the request and at the proper costs and chas in the law of my sd son convey and assure the sd advowson donation and right of patronage of in and to the sd rectory and parish church unto and to the use of the sd his hrs and ass for ever and to or for no other use intent or purpe whater

(a) As to what is devisable, see Pref. § 2.

(b) As to the validity of such contracts, see 'Bonds to resign,' vol. i. p. 274.

Freeholds,
&c.

*A Devise of Tithes (a) for the Augmentation of
a Living.*

Item I give devise and bequeath unto my loving friend (*trustee*) of, &c. and to his hrs and ass for ever all that my pt share and portion of tithes of what nature kind or quality soever issuing and paye to me out of three several farms situate and being in the parish of, &c. And all or. my tithes in the hundred of D affd and upon this special trust and confidence nevss that he the sd (T) and his hrs shall and do from time to time and at all times hrafr permit and suffer the vicar or curate of the parish of S for the time being and his successors for ever vicars or curates of the sd parish of S to rece and take the sd tithes pt share or portion of tithes to his and their own proper use bent and behoof for an augmentation and for the better livelihood provision and maintenance of the sd vicar or curate and his successors vicars, &c. for ever

*Devise of Real Estate in Trust for an illegitimate Son (b)
in case of his Death without Issue.*

Also I give and devise all that messe, &c. unto them the sd (*trustees*) and their hrs *In Trust* and for the only bent of A B (natural son, describing him) for and during the term of his natural life without impeachment of waste And from and after the determination of that estate *In Trust* for such psn and psns to and for such este and estes ends intents and purps as the sd A B shall in and by any deed or deeds or his last will and testament or writing purporting to be such to be by him signed, &c. limit direct and appt And in deft of such limitation direction or appmt *In Trust* for the hrs of the body of him the sd A B And in deft of such issue *In Trust* for the right hrs of me (*the testator*) &c. And I hby nominate constitute and appt (c) the sd (T) guardians of the sd A B

*Will of Freeholds, Copyholds, and Leaseholds, in strict
Settlement. (General Precedent.)*

In the Name of God Amen I, W M of, &c. in the co. of, &c. being of sound and disposing mind and memory do make and publish this my last will and

(a) As what is devisable, see Pref. § 2.

(b) As to illegitimate children being devisees, see Pref. § 5.

(c) As to the appointment of guardians, see vol. i. p. 100, obs. 2.

- Freeholds, &c.** testament in manner and form following First and principally I commend my soul to God and my body I commit to the earth to be decently interred at the discretion of my exs hinafr named and as to such worldly este whof I may die seised I give and dispose thof as follows that is to say I give and devise all my messes or tents lds and hereds situate and being at in the parish of in the sd co. of which I purchased of D W unto and to the use of my son in law M H the elder his hrs and ass for ever I give and devise all that my capital mansion-house and manor of and all the manors (a) messes or tents farms lands hereds and preses situate, &c, (save and except all the messes, &c. which have been conveyed unto me and my hrs by way of mortgage) unto (trustees) To upon and for the uses trusts intents and purps and with under and subject to the powers provos condons and limitons hinafr mentd and expsd of or concerning the same (that is to say) As to for and concerning my sd capital mansion-house at and the close of pasture and the dove-house standing thereon And all the coach-houses barns stables edifices buildings courts yards orchards gardens and pleasure-grounds to the sd capital messe or mansion-house belonging or appertaining and now in my own occupation To the use of my wife M M for and during her life and after her dece to the use of my son W M for, &c. And as to for and concerning all or. the manors, &c. given and devised unto the sd (T) and their hrs To the use of (trustees for term of 99 years) their exs, &c. for and during the term of 99 yrs to commence and be computed from the time of my death and thence next ensuing fully to be complete and ended without impeachment of waste upon and for the trusts intents, &c. that is to say Upon trust that they the sd (T) and the survivor (b) of them and the exs, &c. of such survivor shall and do by with and out of the rents and profits of the sd manors messes, &c. comprised in the sd term of yrs or by such or. ways or means as they or he shall think fit levy and raise such clear annual sums as are hinafr mentd that is to say during the life of the sd M M my wife the clear annual sum of £ — of, &c. without any deduction or abatement therefrom whatsr and pay the same to my sd wife for her own use by four equal quarterly payments on or at the days and times hinafr mentd that is to say on, &c. and a due proportion thereof from such of the sd days as shall happen next
- Devise of certain lands to son-in-law.**
- Devise of mansion-house, manors, &c. to trustees.**
- In trust as to the mansion-house, to the use of wife and son for their lives.**
- As to the manors, &c. to trustees for a term of 99 years.**
- Upon trust to levy and raise an annuity of £ — for wife during her life.**

(a) As to what passes under these words, see Pref. § 10.

(b) As to the necessity of this word, see *Settlement*, § 5.

preceding her death up to the day of her dece (see *Freeholds, Annuity*, Pref. § 3) in augmentation of the jointure (a) &c. provided for her by the settlement on my marrie the first paymt of £ — to be made on such of the sd days as shall happen next after my dece And during the life of my sd son W M the clear annual sum of £ — of like, &c. witht, &c. and pay the same by four equal quarterly paymts on or at the days or times afd in evy yr to my sd wife during the jt lives of her my sd wife and of my sd son to be by her applied and disposed of in and for the maintenance and support of my sd son and his servants in such manner as she think will conduce most to his comfort during the unhappy state of mind he now labours under and from and after the dece of my sd wife if my sd son shall survive her then that they the sd (T) or the survor, &c. do and shall pay apply and dispose of the sd clear annual sum of £ — in and for the maintenance and support of my sd son and his servants in such manner as afd (b) *Provided always* and my will is that when and so soon as all the trusts hinfefe mentd and expsd of or concerning the sd term of 99 yrs shall be in all things performed and at an end and the costs and chas of the sd (T) in or about the sd trusts shall be wholly pd and satisfied the sd term of and in such of the sd manors messes, &c. as shall not have been mortgaged or disposed of shall thenceforth cease determine and be void to all intents and purps whatsr And as to my sd capital mansion-house at, &c. from and immly after the dece of my sd wife and son And also as to, &c. the sd manors, &c. hinfefe given or limited in use to the sd (T) their exs, &c. for the sd term of, &c. from and immly after the expiration or or sooner determination of the sd term of 99 yrs and in the mean time subject thereto To the use of my daur M H the elder for and during her life and from and after the expiration or or determination of that este by forfeiture or orwise in her lifetime then To the use of the sd (T) and their hrs during the life of my sd daur In trust to support and preserve contingent remainders (c) But nevss to permit, &c. my sd daur or her ass to rece the rents issues and prfts of the sd manors, &c. for her own use during her life and from and immly after the dece of my sd daur then as to for and concerning the sd

And an annuity of £ — for the son during his life.

Proviso as to ceaser of term of 99 years.

As to certain manors, &c.

To the use of M H the daughter.

To trustees to support, &c.

(a) As to the effect of any provision by will, in respect of the dower of the wife, see the Dower Act, *Appendix*.

(b) Here add, if necessary, 'powers of distress and entry. See *Annuity*, vol. i. pp. 66, 67.

(c) As to the necessity of trustees in wills to support contingent remainders, see Pref. § 10.

Freeholds,
&c.

To M H the
grandson,
for his life.

To the first
and other
sons in tail
male of
M H.

And in de-
fault, to
W H for his
life;
and to his
first and
other sons.

And as to
certain
other
manors, &c.
To W H his
other
grandson
for his life;

and to his
first and
&c.

manors of with their respie apts and all the sd
messes, &c. situate, &c. (a) *To the use of my grandson*
M H the younger and his ass for and during his life
and from and immly after, &c. *To the use of the sd*
(T) and their hrs, &c. (to preserve, &c.) But nevss to
permit, &c. my sd grandson and his ass, &c. to rece and
take the rents and prfts, &c. *And from and immly after*
the dece of my sd grandson M H *To the use of his first*
son, &c. and the hrs male of the body of such first son
issuing and for deft of such issue *To the use of the second*
third, &c. son and sons and all and every or. the son
and sons of my sd grandson M H lfully to be begotten
severally successively and in remr, &c. and in deft of such
issue to the use of my grandson W H and his ass for and
during, &c. and from and after the determination, &c. to
the sd (T) and their hrs during, &c. But nevss to suffer,
&c. and from and immly after the dece of my sd grand-
son W H *To the use* (of his first and or. sons in tail
male) and in deft of such issue *To the use of the third*
fourth, &c. and all and evy or. the younger son and sons
of my sd daur lfully begotten or to be begotten severally
and successively, &c. and in deft of such issue *To the*
use of all and every the daur and daurs of my sd daur,
&c. (see Settlement, Gen. Prec. (b)) and in deft of such
issue *to the use of my own right hrs for ever after the*
dece of my sd daur M H *Then as to for and concerning*
the manors of, &c. in the afd co. of and all the
messes, &c. situate, &c. *To the use of my grandson*
W H and his ass for and during, &c. and from, &c. in
his lifetime then to the sd (T), &c. during, &c. (to pre-
serve, &c.) But nevss to permit, &c. and from and immly
after the dece of my sd grandson W H *To the use* (of
his first and other sons in tail male) and in deft of
such issue to my sd grandson M H the younger ~~for and~~
~~during &c. (limited to his sons in tail male)~~
and in deft of such issue *To the use of all and evy the daur*
and daurs of my sd daur M H, &c. and for deft of such
issue *To the use of my own right hrs for ever* *Provided*
always and my will nevss is that if the persons to whose
use the sd manors, &c. and preses are hinbefe devised
or limited in remr from and after the dece of my sd
daur M H do not and shall as and when they shall
sevlly by virtue of the devises or limitons hinbefe contd

(a) If there are to be trustees for raising portions of younger children, say, 'To the use of (T) their exs, &c. for and during the term of 1000 yrs upon the trusts, &c. hinaft expsd, &c. of and concerning the same And from and after the determination of, &c. *To the use as above*'

(b) As to cross remainders and joint tenancy, see Pref. § 10.

become and be entitled in posson to the sd manors, &c. or to rece and take the rents and prfts thof use assume and take upon themselves resply the surname of M and by the sd surname of M only and no or. thenceforth for ever thereafter continue to name style and write themselves resply in all deeds instrmts and writings and bear and use the arms of my family and use their utmost endeavours for procuring and obtaining his Majesty's royal licence and authty for them resply taking and assuming the sd surname of M only and bearing and using the arms of my family or shall refuse decline or neglect so to do for the space of six calr mths after they shall sevly become and be so entitled as afd and be of the age of 21 yrs or upwds *Then* and as often as the same shall happen the este and int of him her or them so refusing declining or neglecting as afd of and in all the sd manors, &c. hinbefe given and devised shall thenceforth cease determine and be void to all intents and purps whatsr as if he she or they were actually dead witht issue any thing hinbefe contd to the contrary thof notwithstanding *Provided also* and my will furr is that it shall and may be lful to and for my sd daur M H notwithstanding her coverture and her sons and daurs and their issues as and when they shall sevly by virtue of this my will be entitled in posson to the freehold of the sd manors, &c. and preses resply to rece and take the rents and prfts thereof and also to and and for the sd (T) and the survor, &c. during the minority of such of her sons and their issue who for the time being shall be so entitled as afd by indres to be sealed and delivered by her him or them resply in the presence of and attested by two credible witnesses (to grant leases, (a) see *Settlements, Gen. Proc.*) *Provided also* and my will and mind is that it shall and may be lful to and for my sd daur during her lifetime and by the direction of my sd daur during her lifetime and after her dece of any or. psn who shall be entitled to

Freeholds, &c.

Devises to take the surname of testator.

Power to receive rent and profits.

And to grant leases.

Powers of sale, &c.

(a) If it be leases for lives, say, 'to limit or appt by way of demise all or any pt or pts of the sd manors, &c. for any term or number of years determinable on the life or lives of any psn or psns but so as that there be not at any time more than three lives in being whereon such limitation or apptmt shall resply depend and to accept and take any fine or premium for the making or granting of such limitation or apptmt and so that upon every such limitation or apptmt the usual rents be reserved and paye during the continuance of such term and so that there be in every such limitation, &c. a clause in the nature of a condon of re-entry upon the non-payment of the sd rent and so that there be not any clause or words therein to exempt from punishment for the committing of waste and so that the lessee therein-named do exte a counterpart of the indre thereof.'

Freeholds, &c. the rents and prfts if such psn shall be of full age and of his guardian or guardians during his minority (such request or direction to be testified under the hand and seal of the psn whose consent is hby made necessary) by deed, &c. (to make sale or exchange, see *Settlements*, Pref. § 5, and *Gen. Prec.*) And I do hby authorize and empower such last-mentd (T) and the survors, &c. to appt such psn or psns as they or he shall think proper to oversee manage and improve all or any of my sd estes and to rece the rents and prfts of the same And also to pay and allow to such psn or psns such salary or salaries as to the sd (T) or the trustee for the time being shall seem meet *Provided also* and my will nevss furr is that it shall and may be lful to and for my sd grandson M H the younger but subject and witht prejudice to the uses and este hnbefe given or limited to my sd wife son and daur resply and the afl (T) by any deed or deeds in writing to be sealed and delivered by him my sd grandson in the presence of and attested by two or more credible witnesses to grant limit or appt any rent or annual sum to be issuing or paye out of all or any of the sd manors, &c. which are hnbefe given or limited to him for his life in remr as afd unto and to the use of any woman or women he shall marry or take to wife for and during the life or lives of such woman or women resply for or in nature of her or their jointure or jointures and in bar of dower such rent or annual sum to take effect from the death of the survor of my sd daur and grandson M H the younger and be paye half-yrly or quarterly as he shall think fit but so as such rent or annual sum do not exceed £ — a year tax free for or in respect of every £ — or the value thof in freehold or leasehold estes which my sd grandson M H the younger shall actually have and rece or become or be ~~Woman resply and so in proportion for any greater or less sum than £ — which he shall actually have and rece or become and be entitled to as afd and by the same deed or deeds to give and grant to such woman or women resply and her and their ass such powers and remedies by distress and entry for recovering such rent or annual sum when in arrear and to grant limit and appt the heredit and preses chargeable therewith to any trustee or trustees for any term or number of yrs as to my sd grandson shall seem meet to commence from the death of the survor of my sd grandson and daur for better securing the paymt of the sd rent or annual sum so as such term of yrs be made determinable or defeasible upon payment of the sd rent or annual sum thby~~

To appoint stewards.

To jointure a wife.

secured and all arrears thereof togr with all costs and chas if any incident thereto *Provided also* and my will likewise is that it shall and may be lful for my sd grandson W H (also to jointure a wife or wives *as above*) *Provided also* and it is my furr will and desire that it shall be lful for my sd grandson M H and also for all and evy or. of my grandsons who for the time shall be entitled in possession as afd under this my will by any such deed or instrument to be exted and attested as lastly afd and to be made upon or previously to his or their marriage or respive marriages to charge the same or any pt thereof with any sum or sums of money not exceeding £ — for the portion or portions of any younger sons or daughters not for the time being entitled to the sd hereds in remr expectant upon the dece of my sd grandson or grandsons resply under this my will with int for such portions not exceeding £ — for every 100l. by the year and to make the sd portions paye to such daurs or younger sons resply at such ages days or times and in such manner as they my sd grandsons shall think fit and shall by any deed, &c. direct and appt (a) And I devise and bequeath

*Freeholds,
&c.*

*To charge
lands with
portions.*

(a) If there be trustees for a term of 1000 yrs here declare the trusts for raising portions for younger children, see *Settlements*, Pref. § 5, and *Gen. Prec.*; also *Wills*, Pref. § 9.) Also add, if necessary, 'And I do hby declare that the portions hnbefe provided for such of my children (or grandchildren, *as the case may be*) as afd are intended to be and shall be accepted resply in lieu and satisfaction of the portions provided for them by the hnbefe recited indre of settlement of, &c.' Or thus, 'That nothing herein contd shall extend or be construed to extend to oblige such chn to refund any int or maintenance money for or in respect of such portions.' As to the necessity of some declaration in respect to double portions, see Pref. § 9. Add also, if necessary, '*Provided always* and my will is that the sd (T) and the survivor, &c. do and shall subject and witht prejudice to the trusts afd from time to time permit the rents and prfts or so much thereof as shall remain after answering the trusts afd to be had and recd by the psn or psns who for the time shall be entitled to the same manors, &c. expectant upon the determination of the same term. Add also, if necessary, trusts of accumulation, see Pref. § 10. *Provided also* and I do hby declare my will and mind to be that during the minority of my sd grandson M H or any or. psn or psns hby made tenants for life and for the time being beneficially interested in the rents and prfts of the sd manors, &c. the sd (T) and the survivor, &c. do and shall (but subject to the trusts hnbefe contd) rece and take the rents and prfts and pay and apply a competent pt thereof for the maintenance and education of such psn or psns and invest the residue in the names or name of the sd (T) and the survivor, &c. in the Parliamentary stocks or funds of Gt Britn or at int on Govt and or. real secties in England and Wales so that the same may accumulate in the nature of compound int provided that such accumulation take place during the minorities of such psns only who shall be living at the time or then *en ventre sa mere* and at the end of such period of

*Trusts of
accumulation.*

Freeholds, &c. (a) all my leasehd estates unto the sd (*first trustees*) their exs, &c. for and during all the residue and remr of the sevl terms of yrs which shall be to come and unexpired of and in the sd leasehold preses resply at my dece upon and for the trusts intents, &c. that is to say *Upon trust* in the first place that they the sd (T) and the survor, &c. shall and do by and out of the rents and prfts of the sd leasehold preses yrly and evy yr duly pay satisfy and perform the sevl rents covts and agrts which are reserved and contd by and in the present leases of the sd leasehold preses resply *And upon this furr trust* that they the sd (T) and the survor, &c. shall, &c. by with and out of the rents, &c. or by such or. ways and means as he or they shall think fit raise such sum and sums of money as shall be sufficient to pay the fines and exps of renewing the present and future leases of the sd leasehold preses when and as often as there shall be occasion and do and shall from time to time renew the sd leases accordingly and in order thereunto surrender and yield up the then subsisting lease or leases of the sd leasehold preses resply *And upon this furr trust* that the sd (T) and the survor, &c. do and shall pay or cause to be pd all the residue or overplus of the rents and prfts of the sd leasehold preses resply which shall from time to time remain after answering the purps afd to my sd daur M H or orwise authorize or permit her to rece the same during her life *And from and immly* after her dece do and shall stand possessed of all the leasehold preses resply *in trust* for my sd grandson M H the younger or the psn or psns who for the time being shall be entitled unto the sd manors, &c. to the intent that the sd leasehold preses may go along with and be held and enjoyed togr with my freehold estates hby given and

accumulation or sooner if the sd (T) or trustee shall think proper shall call in and convert the sd accumulated fund into money and by with and out of the money to be produced thby to pay and discharge any sums of money which at the time of my dece shall affect the heredit by virtue of any charge made thereon by virtue of this my will And shall lay out and invest the residue so to be produced as is last hubefer mentd or so much thereof as shall remain after answering the trusts afd in the purchase of freehd and copyhd. estates And shall settle the same so to be purchased To the uses and in the manner to and in which I have by this my will devised the estates from the rents and prfts of which such accumulations shall have proceeded or as near thereto as the deaths of pties and or. circumstances will then admit of But if any investment shall be made during the period of accumulation the rents and profits of the estates so to be purchased shall till the end of the period of accumulation be accumulated in the manner and for the purps hubefer mentd.'

(a) As to the necessity of devising leaseholds separately, see Pref. § 10.

devised as aforesaid so far as the nature and quality of the estates and the rules of law and equity will allow And I will and direct that all my plate pictures and household furniture whatev^r shall descend and go as or in the nature of heir looms to the persons respectively who shall be entitled unto the said capital or mansion-house at and that they shall not be removed out of the same And all the rest and residue of my personal estate which shall remain after payment of my debts and funeral exp^s I give unto the said (T) their ex^s, &c. upon the trusts, &c. that is to say upon trust that they the said (T) and, &c. do and shall as soon after my decease as conveniently may be with the consent and approbation of my said daughter during her life and after her death then of his or their own proper authority lay out and invest all the said residue of, &c. in the purchase of lands lying and being in that part of Great Britain called England whereof no more than one-fourth part in value shall be leasehold free from incumbrances (except fee-farm chief rents and or. rents and services) And convey and settle the said lands to such uses and for such estates and with and subject to such powers and provisos as are hereinbefore limited and expressed of and concerning the said messes, &c. situate, &c. in, &c. or as near thereto as the death of persons will then permit And in the meantime and until the said residue of, &c. shall be so invested do and shall from time to time invest and lay out the same in the public stocks or funds or on parliamentary or real securities to be from time to time transferred (a) varied or altered with the consent of my said daughter as to them shall seem meet And my will is and I hereby direct that all the interest dividends and annual produce of the said stocks funds and securities wherein or whereupon the said residue of, &c. shall be invested or placed shall belong and be paid and paye to such person or persons as would for the time being be entitled to the rents and profits of the lands or tenements so to be purchased as aforesaid And I further will and declare that it shall and may be lawful for my said (T) or the trustee for the time being from time to time during the life of any person to whose use the said manors, &c. and premises are hereinbefore limited and devised for life to cut such timber upon the said estates as shall be fit to cut And I direct that the money to arise by such sale shall be laid out and invested in such manner as is hereinbefore expressed and decided of and concerning the said residue of my personal estate And I give and devise all and every the messes or tenements lands and hereditaments whatev^r

Freeholds,
&c.

Pictures,
&c. as heir
looms.

Gift of re-
sidue upon
trust.

To pur-
chase other
lands,

and settle
them to the
same uses
as the ma-
nors, &c.
at .

Until such
purchase to
lay out
money in
the funds.

Power to
cut timber.

Devise of
mortgages.

(a) As to the necessity of giving this power expressly, see *Settlements*, Pref. § 5.

*Freeholds,
&c.*

Appoint-
ment of
trustees.

Indemnity
to trustees.

Trustees to
reimburse
themselves.

whereof or wherein I have or am entitled to any este of freehold of inheritance by virtue of any mtge or mtges unto and to the use of the sd (T) and their hrs and ass *To the end* and intent that they may reconvey the same upon paymt of the principal sums and int thby resply secured *Provided always* and I do hby declare and direct that if my sd (T) or any future trustee or trustees to be appointed under this provision of my will shall die or be desirous to be discharged or be unwilling or incapable to act in the trusts afd Then and in that case it shall be lful for my sd daur M H or after her dece for my sd grandson M H the younger or any or. psn who for the time being shall be entitled to the rents issues and profits of the sd trust estes and preses if such psn shall be of the age of yrs and if not then for the guardian of such psn [And in case there shall be no guardian then for the surviving trustees or trustee] of his or their own discretions by any deed or writing under his or their hand and seal or hands and seals to be attested by two or more credible witnesses to nominate and appt any or. fit psn or psns to be trustee or trustees in the place or stead of the trustee or trustees so dying desiring to be discharged or unwilling or incapable to act as afd And as often as any new trustee shall be nominated and appted as afd all the trust estes and preses as shall be then vested under this my will shall be resply conveyed assd and transferred in such manner that the same may be legally and effectually vested in the psn or psns so appted as afd either solely or jointly with the surviving or continuing trustees as the case may require Upon the trusts and to and for the uses intents and purps hnbefe expssd and decld or such of them as shall be then subsisting and capable of taking effect and the psns so appted as afd shall have and be entitled to exercise the same powers and authorities as if they had been appted trustees by this my will *Provided also* and I do hby furr will and declare that none of the sevl trustees hby appted nor any of the trustees to be hrafrt appted by virtue of this provision shall be charged or chargeable with or for any sums of money other than what they shall resply actually rece by virtue of the trusts in them hby reposed notwithstanding they or any of them shall join in any rect for the sake of conformity And that one of them shall not be answerable or accountable for the or. of them or for the acts rects neglects or defts of the or. of them but each only for his her or their own acts receipts neglects and defts *And also* that it shall be lful for them with and out of the mos which shall come to

their respive hands by virtue of the trusts afd to retain *Freeholds*
 to and reimburse himself herself or themselves resply *and Per-*
 and allow to his her or their co-trustee or co-trustees *sonalty.*
 all such costs chas or exps as they or any of them shall
 or may resply sustain expend or be put unto in or
 about the exon of the trusts in them hby reposed or in
 any wise relating thereto And I appt and exe-
 cutrix and exs of this my will And I also appt them
 and the survor or survors of them the guardian or guar-
 dians of such child or chn as I may have whether born
 in my lifetime or after my dece during their minorities
 And I revoke (a) all former and or. wills by me at any
 time heretofore made and declare this only to be my
 last will and testament *In Witness* (b) whereof I, W M
 have to two parts of this my last will and testament
 each part contained in sheets of paper set my hand
 and seal namely to the first sheets of each part my
 hand and to the and last sheets of each pt my hand and
 seal the day of in the yr of our Lord 18
 W M (L s)

Signed, sealed, published, (c)
 and declared by the said testator
 as and for his last will and testa-
 ment, in the presence of us, who,
 in his presence, at his request,
 and in the presence of each other,
 have hereunto subscribed our
 names as witnesses [and if there
 are two parts, say, 'as we have
 also done to each sheet of an-
 other part of such will at the
 same time]

R C of, &c. }
 G F of, &c. } Three Witnesses.
 N H of, &c. }

*Will of a Feme Covert disposing of real and personal
 Property in Trust for Sale.*

In the name of, &c. I, C B wife of A B of, &c.
 being of sound, &c. do by virtue of a power (d) to me
 in that behalf given before my intermarriage with my
 sd husband in and by a certain indre of pts bearing
 date, &c. make and publish my last will and testament *Gift of*
 in manner and form following that is to say I do hby *wearing*
apparel.

- (a) As to the revocation of a will, see Pref. § 7.
 (b) As to the execution of a will, see § 5.
 (c) As to publication and republication, see Pref. § 6, 8.
 (d) As to powers and their execution by will, see Pref. § 9.

**Freeholds
and Per-
sonalty.**

**Bequests of
legacies to
executors.**

**Of annui-
ties to
nieces.**

**Of legacies
to sons.**

**Executors
to invest
legacies in
the funds
upon trusts.**

**Advance-
ment of
children.**

give and bequeath unto my sisters F W and C P all my wearing apparel which I shall be possessed of or entitled unto at the time of my dece to be equally divided betn them and if either of them shall happen to die before me then I give and bequeath the whole thof to the survivor of them And I do hereby nominate and appoint R P and C P exs and give and bequeath the sum of £ — to each of my sd exs as a small ackngmt for the trouble which they will have in the exon of the trusts of this my will And I do hereby give and bequeath unto my niece A P daur of R P one annty or yrly sum of £ — for her sole and separate use independent of any husband she shall marry and for which her receipt alone shall be a sufficient discharge And I do give and bequeath unto my niece F W daur of J W one annty or clear, &c. (as before) *Provided always* (a) and I do hereby will and direct that if either of the sd (*annuitants*) hnbefe named shall assign charge dispose of or orwise part with the annty or annities hnbefe by me bequeathed Then and in such case the annty or annities so assigned or disposed of shall immly cease determine and be absolutely void to all intents and purps whatsr And I do hereby bequeath to each of my sons J, W, N and T the sum of £ — of lful, &c. to be an int vested in and to be pd to him at his age of 21 yrs and in case any of my sd sons shall be under the age of 21 yrs at the time of my dece Then I direct that my sd exs do and shall as soon as conveniently may be after my dece lay out and invest the legacy or sum of £ — hnbefe by me bequeathed to each such son who shall be under the age of 21 yrs at the time of my dece in the names of them my sd exs or the survivor, &c. in the public stocks or funds of Gt Britn or upon Govt or real secies at int in Engld to be from time to time altered (b) varied and transferred in or for or. stocks funds or secies of the like nature as they my sd exs shall think proper *In trust* nevss for the son presumptively entitled to the legacy which shall be so invested as afd And *in Trust* in the mean time after my dece to apply the income or the int and divds of the presumptive share of my sd son of and in the stocks funds or secies lastly mentd for or towds his support maintenance and education until his share shall become vested or he shall previously die And I do hereby direct that it shall and may be lful for my exs or psr reptives or reptive for the time being

(a) As to the clause against anticipation, see Pref. § 9; and *Settlements*, Pref. § 5.

(b) As to the necessity of giving this power expressly to the trustees, see *Settlements*, § 5.

at his or their own discretion to pay and apply any pt of the sd sum of £ — hnbefe by me so bequeathed to each of my sd sons as afd not exceeding one-third pt thof for the placing or putting of him in or to any business profession or employment or orwise for his bent or advancement in the world *Provided always* that if any of my sd sons shall die under the age of 21 yrs Then I desire that the legacy of £ — hnbefe by me so bequeathed to each of them who shall so die under the age of 21 yrs or the stocks, &c. in or upon which the same shall or may be invested or so much thof as shall not have been sooner applied for his bent or advancement pursuant to the power afd shall fall into and be considered as pt of the residue of my psl este *Provided also* that if in any one yr my sd exs or psl reptives or reptive for the time being shall in pursuance of the afd discretionary power pay and apply any sum and sums of money for or towds the maintenance and education of my sd sons which shall be less than the int divds and annual produce of the stocks, &c. in or upon which the legacy or legacies hnbefe bequeathed to him or them shall be laid out and invested *Then* and in such case and so often as the same shall happen the surplus of such int divds and annual produce which shall not be applied for or towds such maintenance and education or advancement as afd shall sink into and be considered as pt of my psl este *And* I do hby give and bequeath unto each of my three daurs P, H and E the sum of £ — of, &c. to be an int vested and to be pd to her at her age of 21 yrs or upon the day of her marre if that shall first happen with the consent of their sd (*guardian*) and (*executors*) or the survors, &c. to be signified by writing under their his or her hands or hand previously to such marre *And* in case any of my sd daurs shall be under the age of 21 yrs and unmarried at the time of my dece Then I do direct (*executors* to invest the legacies and apply the interest for the maintenance of the daurs as in the case of the sons) *Provided always* that if in any one yr the sd exs or, &c. shall, in pursuance, &c. (*as above*) pay, &c. and apply any sum, &c. for the maintenance, &c. of such daur, &c. which shall be less than the int, &c. of the stocks, &c. upon which the legacy to which she or they may be presumptively entitled shall be laid out or invested as afd *Then* and in such case and as often as the same shall happen the surplus of such int, &c. shall accumulate (*a*) and go along and be pd at the same time with and be considered as

Freeholds and Personality.

Share of son dying to fall into the residue of the personal estate.

Surplus interest of legacies to fall into the residue of the personal estate.

Surplus of the interest of daughters' legacies to accumulate.

(a) As to trusts of accumulation, § 10.

Freeholds and Personality.

Shares of daughters dying unmarried to sink into the residue of the personal estate
 Gift of real and residue of personal estate to trustees.

Upon trust to convert personal estate into money.

To sell real estate.

Trustees' receipts to be valid discharges.

Trustees to pay debts, &c.

pt of the original legacy or legacies of her or them resply
Provided also and I do direct that if any of my sd daurs shall happen to die under, &c. witht being or having been married with such consent as afd the legacy, &c. bequeathed to such daur so dying, &c. or the stocks, &c. and the accumulations thof shall sink into and be considered as pt of the residue of my pal este *And I do hby devise and bequeath unto the sd (T) all and singr my freehold and copyhold manors messes farms lds tents and hereds [which copyhd estates have been duly surrendered to the use of my will(a)] and all and singr my goods and chattels and pal este of what nature or kind soever not hinfefe by me specifically disposed of To Hold the same unto the sd (T), &c. the survivor, &c. Upon the Trusts and for, &c. that is to say Upon Trust that they the sd (T) and the survivor, &c. shall and do with all convenient speed sell and dispose of and convert into ready money all such pt or pts of my psl este as shall not at the time of my decease consist of ready money and rece and recover and get in all such debts and sums of money as shall be due and owing to me from any psn or psns whomsr And also that they the sd (T) and the survivor, &c. do and shall sell and dispose of all and singr my freehold (b) and copyhold manors messes, &c. entire or in pcels by public auction or private contract unto any psn or psns who shall be willing to become the purchaser or purchasers thereof or of any pt thereof for the most money that can be reasonably had or gotten for the same and shall and do make and exte all such deeds conveys and assurs as shall be requisite and necessary to effectuate such sale or sales And I do hby declare that the rects of my sd trustees shall be good and valid dischas for the sum to be mentd therein and that it shall not be necessary for any such purchaser (c) or purchasers nor shall he or they be bound to see nor be in any respect liable or accountable to any psns whomsr for the application nonapplication or misapplication of the purchase mos or any pt or pts thof And I do hby direct that the sd (T) and the survivor, &c. shall and do by and out of the mos to arise by the sale of my real este and the rents issues and prfts thof until such sale and the mos to arise by the sale of the residue of my psl este pay and satisfy my debts and funeral and testamentary exps And also the sevl pecuniary legacies and annties hinfefe by me bequeathed and appropriate the sevl funds hinfefe by me directed to be appropriated*

(a) These words not necessary since 55 G. III. see Pref. § 10.

(b) As to the power of sale, see Pref. § 9.

(c) As to the necessity of this clause, see *Annuity*, Pref. § 10.

and set apart as afd And shall and do lay out and invest the surplus of the mos to arise by the sale of my real and the residue of my psl este as afd in the names or name of the sd (trustees) and, &c. to be altered, &c. And upon this furr trust that they the sd (T) and the survor, &c. shall and do stand possessed of and interested in the surplus of the mos to arise by the sale of my real este and the residue of my psl este and the intermediate rents and prfts thof and of the stocks, &c. in or upon which the same shall respily from time to time be invested and the int divds and proceeds thereof Upon the Trusts and for the intents and purps hinaftir expssd and, &c. that is to say In Trust for such of my four sevl sons W, &c. living at the time of my dece as shall attain to the age of 21 yrs equally to be divided betn them if more than one share and share alike And in case there shall be only one of them living at the time of my dece Then in trust for that one son But in case none of my sd sons shall be living at the time of my dece or shall live to attain the age of 21 yrs, &c. Upon Trust that they the sd (T) and the survor, &c. shall and do stand possessed of and interested in the mos to arise by the sale of my real and psl este as afd of and in the stocks, &c. in or upon which, &c. In trust to pay and apply the int divds and proceeds thof to each, &c. of my daurs as shall be living at the dece of the survor of my sd sons in equal shares and proportions to and for their sole separate and independent use for which their respive rects alone notwithstanding their coverture shall from time to time be sufficient discharges to my sd (T) And from and after the dece of either of my sd daurs do and shall assign and transfer her respive share of the residue of my psl este and the stocks, &c. unto and amongst all and evy the child and chn of such daur so dying if more than one and if but one then to such only child being a son or sons at their respive age or ages of 21 yrs and being a daur or daurs at their respive age or ages of 21 yrs or day or days of marriage which shall first happen And in case all my sd daurs shall happen to die before they attain their respive ages and witht issue or having such all of them shall happen to die under the age of 21 years and unmarried then I give and bequeath the whole of the sd residue of my psl este unto my husband A B his exs ads and ass to and for his and their absolute use and bent (add provisoes for indemnity of trustees, and that they may reimburse themselves, also for appointing new trustees, see *Settlements, Gen. Prec.*) In Witness, &c.

Freeholds and Personality.

To invest surplus.

In trust for sons equally.

In case of no sons, for daughters equally.

In case of no daughters, then to the husband.

*Lease-
holds, &c.*

*Will of Leasehold Estates, Furniture, and
Stock in Husbandry.*

Payment
of debts.

Confirma-
tion of gifts
to children.

Bequest of
£ — to
daughter
for her
separate
use.

Furniture
given to
wife.

Bequest of
leaseholds.

In the name, &c. I do hby revoke all former wills and declare this to be my last will and testament First I will that all my debts (a) funeral exps and testamentary charges be fully paid and satisfied as soon after my dece as conveniently may be and in case my personal este be insufficient I charge my real este with the deficiency *And whas* I have already given and advanced to my sons T and J the sum of £ — apiece to my daur M H the wife of J H the sum of £ — and to my daur S D the wife of B D the sum of £ — in order to advance and settle them resply in the world Now I do hby confirm to them sevly the afd gifts Also I give and bequeath unto my sd daur S D the sum of £ — to be pd (b) to her by my exs hinafter named in mths after my death togr with int for the same at the rate, &c. from my death until the sd legacy shall be pd And I do hby declare that the sd sum of £ — shall be pd into the proper hands of my sd daur S D for her own separate and proper use and benefit and that her receipt for the same shall notwithstanding her coverture be a sufficient discharge to my sd exs Also I give to my beloved wife M such part of my household goods and furniture as she shall choose to take at the time of my death for her own sole use and disposal *And* I give and bequeath all that my leasehold mease or tent where I now dwell and all and evy the yds garden, &c. and or. apts unto my sd wife and her ass for and during her life if my este and int therein shall so long continue she and they keeping the same in good and tenantable condon and repair and payg the rent to grow due for the same and observing and performing the covts condons and agrts on the pt of the lessee, &c. And from and immly after the dece of my sd wife I give and bequeath the sd

(a) Or thus, if it be more suitable, 'I direct that the debts which I shall owe at my dece [and all the legacies hby given or which I shall give by any codicil hereto shall be pd out of my psl este not specifically bequeathed And I charge all my real estates (subject and without prejudice to the este and int of my wife therein) with the paymt accordingly] Or thus, *as the case may be*, 'In case the estes hby made chargeable with the paymt of the sd legacies hby given shall not be adequate or sufficient to pay the whole the deficiency shall be made up to be raised under the trusts of the term hnaft contd And I exempt my personal estate from the payment of the annuities hby given As to the exemption of the personal estate from the payment of debts, see Pref. § 9, also *next precedent*.

(b) As to the necessity of determining the time of paying legacies and annuities, see Pref. § 9.

messe or tent unto my son T his exs ads and ass for and during all the then residue and remr of my este and int therein to his and their own absolute use and bent And I give and devise all or. my messes or tents pieces or pcls of grd (not hnbeft by me given or devised) which I am possessed of or interested in by virtue of any leases contracts or orwise unto (*trustees*) their exs ads and ass for and during all the estes and ints as I have therein resply and also all my stock in husbandry and all the rest and residue of my goods chattels mos and secties for money and or. my psl este and effects whatsr and wheresr upon the trusts, &c. that they the sd (*T*) and the survors, &c. do and shall as soon after my dece as conveniently may be collect get in rece and recover such debts and sums of money as may be any ways due and owing to me at the time of my death and do and shall sell and dispose of all or any of the sd messes or tents pieces or pcls of ground stock in husbandry, &c. for the most money that can be had and gotten for the same and do and shall by and out of the mos arising by such sale or sales togr with the mos to be recd on acct of the sd debts pay satisfy and discharge all such principal sum or sums which shall or may at my dece be due and owing upon or by virtue of any mtge or mtges of the sd messe and preses now in my own occupation and hnbeft given or devised to my sd wife as afd and in the mean time to pay and apply and dispose of so much of the annual rents and prfts of the sd messes, &c. as shall be necessary for keeping down and discharging all int due on the sd mtge to the intent that the sd messe, &c. devised to my sd wife may be freed and discharged of and from such mtge and mtges and all int to grow due on the same And upon this furr trust that they, &c. do and shall stand possessed of, &c. all the sd messes, &c. or so much thereof as shall remain undisposed of for the purps afd In Trust for my sd wife during her life if my este and int therein resply shall so long continue and do and shall permit and suffer her to rece and take the rents issues and prfts thereof resply And upon this furr trust that they, &c. do and shall lay out and invest the residue or surplus if any of the mos to arise by the sale of my sd messes stock in husbandry, &c. which shall remain after answering the purps afd in the public stocks, &c. or real secty at int all which stocks, &c. shall and may from time to time be transferred altered varied, &c. and the int divds and produce thof do and shall pay unto my sd wife for and during her natural life by half-yrly payments and from and iimly after her dece Then upon trust to pay apply assign and transfer all the sd capital

Lease-
holds, &c.

Devise to
trustees.

Also gift of
stock in
husbandry
and other
effects.

Upon trust
to collect
in debts and
sell lease-
holds, &c.;

and pay off
mortgage.

To place
out and in-
vest residue
on security.

Money. stock and trust moneys unto and betw all my sd sons and daurs as and when they shall respaly attain their respive ages of 21 yrs in equal shares and proportions but in case any or either of my sd sons or daurs shall happen to depart this life before he or they shall be entitled to his her or their part or share of the residue of my pal este hnbefe by me given to them witht leaving any lful issue of his or their body or bodies then I give and bequeath the pt or share of him so dying witht leaving issue to such of my sd chn as shall then be surviving to be equally divided betw them at such time or times as his or her original share shall become paye And my will is that all and evy the share and shares so directed to survive shall from time to time survive togr with the original share or shares until the same shall become paye And my furr will is that the int and divds or so much thereof as shall be thought necessary by my sd (T) or the trustee for the time being shall be applied for and toward the maintenance education and advancement in the world of my sd sons and daughters during his her or their respive minorities and the residue thereof shall be invested in or upon such secties as afd and accumulate in the way of compound interest and that such accumulations shall be in trust for the pns who under the trusts hnbefe declcd shall become absolutely entitled to the funds whence such accumulations have proceeded (add here, if necessary, the clauses of indemnity to trustees, liberty to reimburse themselves, and power to appoint new trustees, see *Gen. Prec.*) And I do hby appt and name the sd (T) to be the exs of this my will and do revoke all former wills by me made *In Witness, &c.*

Survivorship.

Will of a Merchant.

Payment of debts, &c. In the name, &c. This is the last will of, &c. First, I order and direct that my private debts (a) and funeral

(a) If a term is to be created for the payment of debts, say, 'I give and devise the lands situated at with their appts unto and to the use of (trustees) their exs ads and ass for and during the term of 99 years to be computed from the day of my decee witht impeachment of waste but nevss upon the trusts and to and for the intents and purps following that is to say *Upon Trust* that they the sd (T) or the trustee for the time being do and shall with and out of the respive rents issues and prfts of the sd hereds and preces therein comprised or by mtge or sale of a competent part of the same preces for all or any pt of the sd term or by any or. ways and means as they shall think fit raise and levy such sums of money as shall be necessary for paying so much of my debts legacies funeral and testamentary chas as my pal este not specifically bequeathed may happen to fall short in the payment of' As to the necessity of some declaration in respect to the payment of debts out of any other than the personal estate, see *Pref. § 9.*

and testamentary expences shall be pd as soon after my death as conveniently may be (my ptshp debts and engagements in business will of course be pd by my prtners in trade) I give and bequeath unto my sister H all such sum and sums of money as she may stand indebted unto me at the time of my dece And I do hby rele and discharge her therefrom And I do direct that any secty for the same which I may be in posson of may be delivered up to her to be cancelled And I also give and bequeath unto her the further sum of £ — that she may be the better enabled to exonerate the estate devised to her by A L from all the chas affecting the same at the time of his dece or which were created by his will and that she may be relieved from the paymt thereof And it is my exps will and desire that this bequest shall not be defeated or in anywise affected by the discharge of such incumbs or any of them previous to my dece or on any or. acct whatsr and that my sd sister do permit the sd sum of £ — to remain at int after the rate, &c. paye to her half-yrly from the day of my dece in the house of M and Co. in which I am a partner if it shall suit her convenience to suffer the same to remain for the term of yrs or longer if the sd house may be desirous of retaining the same And I do direct that she do not apply for and draw out the same or any pt thof witht giving six mths' notice to them in writing under her hand of such her intention And whas the principal part of my psl este has been invested in the sd house of I do hby direct and my will is that my exs and trustees hinafr to be named do permit and suffer so much thof as shall appear to be the clear amount of my capital share right prft and int of from and in the sd jt trade thereof to remain in the sd trade for the bent of my surviving ptnrs during the term of yrs from the day of my dece And that at the expiration of that term of yrs they do either continue the same for any longer period or demand and rece the same of and from my sd surviving ptnrs they my sd exs giving to my sd surviving ptnrs notice of this limitation *Provided* that both my sd ptnrs I M and A D or either of them shall live during the periods appted for paying such instalments and shall be desirous of retaining the use of the sd mos but in case of their dece within either of the sd periods then I direct that my exs do demand recover and rece the same upon the dece of the survor or longest liver of them of and from the legal reptives of such ptnr or of and from whomsr it may concern to liquidate and pay the same *Provided also* that each of them my sd ptnrs do also retain a like amount of capital in the

Money.

Release of debts to sister.

Bequest of £ — to sister.

Money to remain on interest in the house of which testator was partner.

Testator's share in the capital stock, also to remain on interest.

To be paid to trustees by three instalments.

Money. sd jt trade and also upon this condition that they do and shall pay or cause to be pd to my sd exs yrly int for the same at the rate, &c. afd And that if notwithstanding this direction it shall become absolutely necessary for the paymt of any of the legacies hnaft given and bequeathed for the bent of my wife and chiln to call in my sd share and capital at any time sooner than the term hnbeft mentd that it shall be lful and competent for my sd exs so to do having regard to and consulting the convenience and consent of my sd surviving ptors as to the periods and amount of the instalments by which the same or any pt thereof shall be pd And *whas* previous to my marre with my dear wife S, I did exte an indre of settlement bearing date, &c. which I do hby in all respects confirm and did by two jt bonds secure to the trustees thof the two sevl sums of £ — and £ — and int which were thby assigned upon certain trusts therein mentd and expsd which I direct may be duly fulfilled *Now therefore* in order to make a better provision for her I do hby give and bequeath unto my dear wife her exs ads and ass the sum of £ — to and for her own absolute use and bent in addition to and increase of all bent which she can or may rece by virtue of the sd marre settlemnt on condon nevss that she and they do permit and suffer the same to remain at int in the sd house of M and Co. in manner and for the time and under all such circumstances as are hnbeft expsd concerning my share of the capital of my sd jt trade And I do also give and bequeath unto R S and A S the furr sum of £ — sterling pt of my sd capital so remaining and hnbeft directed to remain in the sd jt trade as afd *Upon the Trusts* and to and for, &c. that is to say *In Trust* in the first place to continue and to permit and suffer the same to remain in the sd jt trade in manner and upon the terms hnbeft expsd And during all such time as the same shall so remain therein to ask demand and rece of and from my surviving ptors in trade yrly int at, &c. afd from the day of my dece by half-yearly paymts and to pay and apply the same yrly int in such manner as is hnaft directed of and concerning the yrly int divds and income of the sd sum of £ — when the same shall be drawn out and recd from the sd jt trade And when and as soon as the sd sum of £ — shall be drawn out and recd from the sd jt trade *Upon Trust* to invest and lay out the same forthwith in the jt names of the sd (T) or the survors, &c. either in the purchase of government funds or in the purchase or mtge of real este *In Trust* as to the yrly rents int divds income and proceeds thereof to pay and apply the same and evy pt thof unto and towds

Bequest to wife of £ — in addition to what she was entitled to under the marriage settlement.

Bequest of part of capital to trustees.

Declaration of trusts.

the maintenance and education of all the chiln which are or shall be the issue of my marre in equal shares and proportions during their respive minorities *And* I direct that the same shall be when so recd regularly pd into the hands of my sd dear wife to be by her applied and disposed of for that purpe and when and as my sd chiln being sons shall resply attain the age of 21 yrs or being daurs shall attain that age or marry with consent of their sd mother and after her dece with consent of the sd trustees *Then upon Trust* for all and every or any such one or more of my chiln for such este and estes either absolutely or conditionally and with or witht power of revocation and in such sort manner and form and subject to with and under such powers provos condons restrictions and limitons (such limitons over to be for the bent of some or one of them) as my sd wife shall from time to time or at any time or times by any deed or deeds writing or writings to be by her signed sealed and delivered in the presence of two or more witnesses direct limit or appt *And* in deft of such direction limitation or appmt and so far as the same shall be incomplete and not extend in trust for all and evy my child and chn equally to be divided betn and among them if more than one share and share alike as tenants in common and not as jt tenants and if there shall be but one child then to such only child the same to be vested in such of them resply as shall be a son or sons at his or their age of 21 yrs or being a daur or daurs at her or their respive ages or days of marre which shall first happen (add clause of survivorship, see *last precedent*) *And* in case none of my chiln being sons shall live to attain the age of 21 yrs or being daurs shall live to attain that age or marry *Then in Trust* that they the sd (*T*) or the survors, &c. do and shall stand and be possessed of and interested in the sd trust estes, &c. in trust for the psn or psns who shall be entitled to the same under the statute for the distribution of intestate's effects *Provided always* that it shall and may be lful to and for the sd (*T*) with the consent of my sd wife during her life and after her dece of their own authty during the minority of my sd chiln to lay out and invest the surplus of the int divds and annual proceeds arising from the shares and proportions of such of them as shall be under the age of twenty-one years as afd after applying so much of such int divds and proceeds as shall be sufficient for their respive maintenance education and support in such and the like secties as are hnbefted there to accumulate to and for the use and bent of him her or them so under age as afd which accumulations are to be subject to the like con-

Money.

To children as wife shall appoint.

In default of appointment to children equally.

Money. tingencies and to be paye and pd asdd or transferred to him her or them at such time and in such manner as is hnbefe directed with respect to their original shares *And* I do hby nominate and appt my sd dear wife guardian of all my sd dear chiln And also my sd dear wife and my good friend and ptner A D joint extx and exr of this my sd will And hby revoking, &c. all former wills I do declare these prests to be and contain my last will and testmt (add indemnity to trustees, &c. see *Gen. Prec.*) *In Witness, &c.*

Another Will of Personal Estate.

To his
daughter
E D inde-
pendent of
any hus-
band.

I give and bequeath to my exs hnaft named the sum of £ — In trust to invest the same in their jt names in the purchase of 3l. per cent. consol Bk Annties and to hold the capital so to be purchased with all int and divds to accrue thereon to for and upon the sevl uses, &c. that is to say *upon trust* to pay the int and divds thof as and when the same shall be recd to or to the sole and separate use of my daur E D wife of I D and her ass for and during the term of her natural life and I direct that the same shall not be subject to her husband's debts or control and that her rect alone notwithstanding her coverture shall be a good and sufficient discharge for the same and from and immly after her dece *upon trust* to pay, &c. (annty to I D for his life) and from and after the dece of the survor of them the sd I D and E his wife *upon trust* to assign and transfer the sd capital stock and all divds, &c. to and amongst all and evy such child, &c. as and when they being sons shall attain the age, &c. or being daurs, &c. in equal shares, &c. And in the mean time in trust to pay and apply the int and divds in and towds their respive maintenance and in case any of them shall happen to die during their minority *Then upon Trust* to pay and apply assign and transfer the share and proportions and int, &c. belonging to such child, &c. so dying to and for the use of the survors, &c. And in case all such chiln shall happen to die before attaining such age or previous marriage *Then upon Trust* to assign and transfer all the sd capital stock so to be purchased and all int and divds, &c. to the acct of the residue of my este and effects Also I give and bequeath to my sd exs the sum of £ — *in trust* to invest, &c. and hold the same to for and upon the sevl uses, &c. that is to say *Upon Trust* to pay, &c. to and to the use of my daur H wife of N L, &c. (the same as before) I give and bequeath to my sd exr the sum of £ — in trust to invest, &c. and to hold the same, &c. for the bent of my two daurs C and M *In Trust* to pay

Other sum
to his
daughter
H L.

and apply from and out of the sd int and divds the yrly sum of £ — to their mother my sd wife for each of them my sd daurs during their respive minorities or for so long as they or either of them shall continue to dwell with her in and towds their maintenance and education and also to invest all the rest of the sd int, &c. in accumulation of the sd capital during their respive minorities and when and as they shall resply attain their age of 21 yrs In trust to pay apply and divide the rest of the int, &c. togr with the int, &c. of all such accumulations as afd to and betn my sd two daurs And in case both or either of my sd daurs should marry with the consent of their mother *Then upon this furr trust* to pay and apply the respive sums of £ — out of each of the moieties of the sd capital stock in part of her or their marre portion And as to the rest of the sd capital stock togr with all accumulations thof *In trust* to assign the same to such psn or psns as shall be then chosen to be trustees in settlemt upon such respive marres to be held by them *In trust* for the bent of such daur or daurs and for her and their separate use, &c. and after her and their deceases for the use of the sd husband or husbands for his or their lives resply and after their deceases resply for the use of such child or chiln as shall be the issue of such respive marres in such manner as the issue of my daur E with ED and H with NL are hnbefe by this my will provided for and limited resply And in deft of such issue then as to the whole of such capital so to be vested in settlement *In Trust* to sink into and become pt of the residue of my este and effects And as to all the rest and residue of my este, &c. I do hby give and bequeath the same to my sd exs to hold the same to for and upon the uses, &c. that is to say *upon trust* from and out of the yrly int and divds to accrue thereon in the first place to pay to my sd dear wife E the sum of £ — for and towds the support of my son R during so long time as he shall continue to dwell with her and until he shall have attained the age of 21 yrs *And also* to pay and apply so much of the rest of the yrly int, &c. as my sd exs, &c. shall deem proper and necessary in and towds the maintenance and education of my sd son *And* from and after my sd son shall have attained the age of 21 yrs to pay the whole of the yrly int, &c. and of all such accumulations as afd to my sd son for his use and bent until he shall attain the age of 25 yrs *And* when and so soon as he shall have attained such last-mentl age *Then upon trust* to transfer and assign the whole of the sd residue of, &c. unto my sd son his exs, &c. for his and their absolute use and bent

Money.

Other sums
to his un-
married
daughters
C and M.

Residue in
trust for the
benefit of
his son R.

Nuncupative. (add indemnity to trustees, &c. see *Gen. Prec.*) *In Witness, &c.*

A Nuncupative Will.

Obs. As to the formalities required in respect to nuncupative wills, see *Pref.* § 5.

Be it known to all whom it may concern or to whom these prests shall come That A B of, &c. decd did on the day of at or about the hour of by the clock in the afternoon of the same day being then weak in body and in his last sickness but of sound and disposing mind memory and understanding in the presence of us whose names are hereunder signed and written (and who were expsly required by him to bear witness thereto) declare his last will and intention to be as follows that is to say that he gave and bequeathed unto his dear wife M B all his pel este and effects of evy nature and kind whatar and wheresoever for her own sole use and bent subject only to the payment of his just debts and funeral and testamentary exps and that he named and apptd (*executor*) exr of his sd will for the purpe of seeing to the due exon thof As witness our hands this day of

A Seaman's Will.

*Of a
seaman.*

In the name of, &c. I, A B of, &c. being in bodily health and of sound mind and memory and considering the perils and dangers of the seas and other uncertainties of this transitory life do make publish and declare this my last will and testmt in manner following that is to say first I commend my soul to God that gave it and my body I commit to the grave or to the sea as it shall please God to order it *And* as for and concerning all my worldly este I give bequeath and dispose thof as followeth that is to say as to all wages and sums of money as shall be any ways due owing or belonging unto me at the time of my dece I do give and bequeath the same unto my wife C B her exs and ads *And* I do hby nominate and appt my sd wife sole extrix of this my last will and testmt hby revoking all former and or. wills and testmts by me at any time heretofore made *And* I do declare this to be my last will and testmt *In Witness, &c.*

Will of a Tradesman.

(*Precedent for carrying on a Business.*)

Bequest of money due In the name, &c. This is the last will of, &c. I give and bequeath all and evy the sum and sums of money

which may become paye to my exs after my dece in respect of any insurance or insurances either already or hwafr to be effected by me at the office in London unto (trustees) and the survivor, &c. *Upon Trust* that they the sd (T) and the survivor, &c. do and shall as soon as conveniently may be after my dece lay out and invest such sum or sums of money in their or his names or name in the stocks or public funds of Gt Britn at int upon Govt or real secties in Engld or Wales and do and shall from time to time during the life of my wife with her consent in writing and after her dece at their or his discretion alter vary, &c. (see *Gen. Precedent*) And I do hby declare that the sd (T) and the survivor, &c. shall stand and be possessed of, &c. the sd trust mos stocks funds and secties and the int divds and annual produce thof *Upon Trust* that they the sd (T) do and shall pay the int, &c. unto or permit the same to be recd and taken by my sd wife C and her ass during her life for her and their own absolute use and bent And from and immly after the dece of my sd wife I declare that the sd (T) and the survivor, &c. shall stand and be possessed of, &c. the sd trust mos, &c. and int, &c. thof *Upon* and for the trusts intents, &c. hwafr decld and expsd of, &c. the same *And whas* I have for some time past carried on the business of at and am desirous that the sd business should be carried on for the bent of my sd wife and chiln as hwafr mentd *Now therefore* I hby give and bequeath my sd business of and all my int therein and all my stock and effects now or to be hwafr employed therein and all mos and debts which shall be long and be due and owing to me at the time of my decease for or on acct of the sd business And also all messes workshops warehouses and hereds now or hwafr to be employed in or connected with the sd business unto the sd (T) and the survivor, &c. *Upon* and for the trusts, &c. expsd and decld of, &c. the same that is to say *Upon Trust* that they the sd (T) and the survivor do and shall manage and carry on the sd business until my sd son C B shall attain the age of 21 yrs or die which shall first happen and in the event of the death of my sd son C B until my sd son H B shall attain the age of 21 yrs *And* for that purpe I declare that they the sd (T) or the trustee for the time being shall have the fullest power over the sd business which I can give him or them by this my will so as to enable them or him to carry on manage and conduct the business in the same manner to all intents and purps as I myself could do if I were living and acting therein And I do hby declare that during such time as the sd business shall be carried on

Trade.

on insu-
rances to
trustees.To invest
in the
funds.Bequest of
business
and stock
in trade to
trustees.To carry
on the
business
until his
son C B or
H B shall
attain his
age.

Trade. by the sd (T) or the trustee for the time being in pursuance of this my will they and he shall stand and be possessed of and interested in the sd business stock and effects mos debts messes workshops warehouses and preses and the prfts to arise from the same Upon and for the trusts intents and purps and with under and subject to the powers provisions and declons including the provision hnaft made for my sd wife upon for with under and subject to which the sd (T) or, &c. would in pursuance of this my will stand and be possessed of and interested in the mos to arise by the sale of the sd business and preses and the stocks funds and secties in which the same shall be invested and the int, &c. thof in case the sd business and stock were sold immly after my dece or as near thereto as circumstances will admit of *Provided Always* and I do hby direct that during such time as the sd business shall be carried on by the sd (T) or, &c. in pursuance of this my will my sd sons C B and H B and the survor of them shall always be employed therein and after they or he shall attain the age of 21 yrs the sd (T), &c. shall carry on and manage the sd business with their advice and assistance and do and shall with and out of the prfts to arise out of the sd business allow them and him an annual sum not exceeding £ — each for their or his trouble as the sd (T) or, &c. may think proper *Provided Always* and I do hby furr declare that it shall be lful for the sd (T) or trustee for the time being to discontinue the sd business at any time whilst the same shall be carried on by them in pursuance of this my will But in case the sd business shall not have been previously discontinued by the sd (T) or, &c. *Then* I direct that when and so soon as my sd son C B shall attain the age of 25 yrs or in the event of the death of my sd son C B when and so soon as my sd son H B shall attain the age of 25 yrs the sd (T) or, &c. shall offer to sell to my sd son C B or in the event of his refusal or death to my son H B for such price as the sd (T) or, &c. shall think fair and rease my sd business and all my int therein and all the stock and effects for the time being employed therein and all messes workshops, &c. employed in or connected with the sd business *Provided nevss* that my sd sons C B or H B or either of them as the case may be shall not be required to pay any conson for the goodwill and custom of the sd trade And in case of the refusal of both of them my sd sons or the survor of them to purchase the same when offered to them or him in pursuance of the directions hnbeft contd or in case of the death of both of them my sd sons before the same shall be so offered

Proviso for
discontinu-
ance of the
business.

Trade.

for sale to them or either of them as aforesaid or in case the said (T) or, &c. shall in pursuance of the power hereinbefore for that purpose given think proper to discontinue my said business altogether Then and in any of the said cases I direct that the said (T) or, &c. shall forthwith absolutely sell and dispose of the said business stock and effects messes, &c. and preses to any person or persons willing to purchase the same for such price as the said (T) or, &c. shall think reasonable And I do hereby declare that if the said person or persons purchasing the said business stock and effects messes, &c. shall not pay down the price or conson in money for the same it shall be lawful for the said (T) or, &c. to accept a security for the payment of the said price or conson or of so much thereof as shall not be paid down with interest for the same in the mean time after the rate of, &c. on mortgage of the preses so purchased and also all such or real or personal security as they or he the said (T) or, &c. shall think proper to accept And I further declare that if the person or persons purchasing the said business stock effects, &c. shall be my sons C B and H B or either of them Then they or he so purchasing as aforesaid shall not be bound or obliged (except in the event of money being wanted for the advancement of any one or more of my present or future born sons as is hereinafter mentioned) to pay off in any one year more than part of the money so secured And I do hereby declare that the said (T) or, &c. shall stand and be possessed of and interested in the moneys to arise by the sale of the said business Upon and for the trusts and intents, &c. decided, &c. of and concerning the same And whether the said (T) or, &c. shall by virtue of this my will carry on the said business or not I do hereby give them and him full power and authority to enter into such contracts and agreements respecting the said business and preses as they shall think proper and to increase or abridge the said business and to make such sales and dispositions of all and every part of the said stock, &c. and preses now or hereafter to be employed in or connected with the said business or with and out of the moneys which shall come to their hands by virtue of this my will (except the sums of money which may come to my executors in respect to such insurance or insurances as are hereinbefore mentioned) to make such purchase or purchases of stock and effects as the said (T) or the trustee for the time being shall think proper And also to adjust and settle all accounts and transactions in which I shall be interested at the time of my decease and to compound and compromise any debts owing to me or claimed for me And also to submit to arbitration all matters between me and any or persons and generally to transact all matters and concerns respecting the said

Trustees
to deal with
the trust
property as
they think
fit.

Trade.

business and preses and to do and exte all such acts and deeds relative thereto in such and the same manner to all intents and purps as if they or he were absolutely entitled to or beneficially interested in the sd business and preses And I do hby declare that all costs chas and exps of carrying on and conducting the sd business shall be borne and pd with and out of the mos which shall come to their or his hands by virtue of this will (except the sum or sums of money as are hnbeffe excepted) *Provided Always* and I hby furr declare that notwithstanding any thing hnbeffe contd it shall be lful for my sd wife and she shall be entitled during her life to hold and occupy the messe or dwelling-house where I now reside and which is adjoining the workshops, &c. where my sd business is now carried on witht paying any rent for the same And as to all the rest and residue of my psl este and effects whatsr and wheresr I give and bequeath the same unto the sd (T) and the survor, &c. *Upon Trust* that they, &c. do and shall with all convenient speed after my dece sell dispose call in and convert into money such pt of my residuary este as shall not consist of ready money And for promoting and facilitating such sale or sales do and shall enter into make and exte all such contracts assignments and assurs as the sd (T) or, &c. shall think proper And do and shall with and out of the mos which under or by virtue of the residuary bequest hnbeffe contd shall come to their or his hands by all or any of the means afd Also with and out of the mos which by any or. means shall come to their or his hands by virtue of this my will (except the sums or sum of money as are hnbeffe excepted) pay satisfy and discharge all my just debts and funeral and testamentary exps and the sevl pecuniary legacies given by this my will or as I shall give by any codicil to this my will And I direct that the sd (T) or, &c. do and shall lay out and invest so much of the sd mos as shall come to their or his hands as afd (except as before excepted) subject to the paymt of my just debts, &c. or to the afd trusts for carrying on the sd business and also the mos to arise by the sale of my sd business and my int therein and of the stock, &c. (but subject and witht prejudice to the power hnbeffe given to my sd (T) or, &c. to allow the same mos to remain on such secties as afd) in the names or name of them or him in the purchase of stocks, &c. at int, &c. upon, &c. secties, &c. and do and shall from time to time alter, &c. the sd trust mos into or upon or. stocks, &c. of a like nature at his or their discretion And I hby declare that the sd (T) or, &c. do and shall

To allow
wife the ad-

during the life of my sd wife C with and out of such last mentd int divds, &c. levy and raise such an annual sum as togr with the int, &c. of the trust mos hnbefe settled on my sd wife for her life will amount to the annual sum of £ — clear of all deductions and abatements whater and do and shall during the life of my sd wife pay such annual sum to my sd wife or her ass by four quarterly paymts in evy yr the first paymt thof to commence and be made at calr mths next after my dece *Provided always* and I do hby direct that my sd wife shall with and out of the sd annual sum of £ — hnbefe provided for her educate and maintain my sd sons C B and H B during their respive minorities and all and evy present and future born chiln and child until such times or time as they or he shall resply become entitled by virtue of this my will to vested ints or a vested int in the portions or portion for them him or her hnafr resply provided *And* I hby declare that the sd (T) or, &c. do and shall subject and witht prejudice to the levying and raising of such annual sum of £ — so to be pd to my sd wife C during her life as afd stand possessed of and interested in the sd trust monies lastly hnbefe directed to be laid out and invested and the stocks, &c. in which the same shall be invested and the int, &c. thof resply *And* do and shall from and immly after the dece of my sd wife stand and be possessed of the sd trust mos stocks, &c. hnbefe settled on her and the int, &c. thof upon and for the trusts, &c. and with under and subject, &c. hnafr expsed, &c. concerning the same resply that is to say that all the sd trust mos stocks, &c. shall be divided in equal shares and proportions betn or amongst all and evy my present and future born chiln and child who being a son or sons shall resply attain the age of 25 yrs or after having attained the age of 21 yrs shall marry and who being a daur or daurs shall resply attain the age of 25 yrs or marry under that age with the consent of her or their guardian or guardians for the time being *And* the respive shares of each and evy such present and future born son in the sd trust mos stocks, &c. and the int, &c. thof shall remain and be *In Trust* for such son his exs ads and ass resply for his and their own absolute use and bent *And* as to the respive share of each and evy such present and future born daur as afd in the sd trust mos, &c. and the int, &c. thof I do hby declare that the sd (T) or the survivor shall stand possessed of and interested in the same *Upon Trust* that they the sd (T) or, &c. do and shall during the life of each respive daur pay and apply the

Trade.

ditional
annual sum
of £—All the
trust monies to be
divided
equally
among the
children at
the age of
25 or marriage.Upon trust
for daughters for

Trade.
their separate use.

Receipts of daughters to be valid discharges.

int, &c. of such respive shares to such psn or psn only and for such intents and purps only as such respive daur whether covert or sole and if married as if she were sole and unmarried shall from time to time by any deed, &c. (see *Settlements, Gen. Prec.*) direct and appt And in deft of and until such apptmt or direction and so far as the same shall be incomplete or not extend into the proper hands of such respive daur for her sole and separate use and bent exclusively of any husband whom she may marry and witht being in any wise subject to his debts control interference or engagements And the rects of such respive daur or of such psn as she shall from time to time direct or appt to rece the sd int, &c. or any pt thof shall whether she be covert or sole be an effectual discharge for the money therein mentd and ackngd to be recd And after the dece of such respive daur the sd share in the sd respive trust mos, &c. shall remain and be *In Trust* for all and evy one or more exclusively of the or. or ors of the chiln or child of such respive daur with such provision for their respive maintenance education and advancement in such shares if more than one and with such restrictions and in such manner as such respive daur by any deed, &c. shall from time to time direct or appt to rece the sd int, &c. *In Trust* for all and evy the chiln and child of such respive daur in equal shares as tenants in common and not as jt tenants And if there shall be but one such child the whole to be in trust for that one child And if there shall be no such child then in trust for such daur her exs ads or ass *Provided always* and I do hby furr declare that it shall and may be lful for every such respive daur either by any deed or deeds to be by her resply sealed and delivered in the presence of and attested by two or more credible witnesses or by her last will and testament in writing or any writing purporting to be her last will and testament signed and published in the presence of three or more witnesses and either befe or after her marre to appt the whole or any pt of the int, &c. of her respive share in the trust mos, &c. to be pd after her dece to any husband whom she may marry and his ass for his life *Provided always* and I do hby furr declare that after the dece of such respive daur and in the mean time and until (a) the vesting of the portion or portions so provided for the child or chiln of such respive daur as asd the sd (T) or, &c. do and shall (but subject and witht prejudice to the life int of my sd wife therein and to any life int

(a) Or, 'until the whole of the sd trust mos stocks funds and secties shall become vested in such child or chn.'

to which any husband of such respive daur may for the time being be entitled to hy virtue of the power hnbefe for that purpe contd) (a) apply the int divds and annual produce of the portion or respive portions to which such child or chilm of such respive daur shall be entitled in expectancy or a competent pt thof for or towds his her or their maintenance or education and shall from time to time lay out and invest the residue of such int in the names, &c. in any, &c. secties so that the same may accumulate in the nature of compound int And shall and may from time to time alter, &c. And shall stand possessed of all such accumulations and the stocks, &c. in which the same shall from, &c. be invested In Trust for the psn or psns who shall be ultimately entitled to the stocks, &c. from which such accumulations have proceeded Provided always and I do hby declare, &c. that after the dece of such respive daur or during her life with her consent in writing it shall and may be lful to and for such (T) or, &c. (but subject and witht prejudice, &c. as above) to advance any pt not exceeding, &c. (for Preferment, see Gen. Prec.) Provided always and my will is that after my two sons C B and H B shall have resply attained the age of 21 yrs or after the dece of my sd wife which shall first happen so far as relates to my sd sons C B and H B resply and after the dece of my sd wife so far as relates to all and evy of my or. present and future born children and in the mean time and until my sd sons, &c. and all and evy my sd daurs shall by virtue of this my will resply take vested ints or a vested int in the portion or portions for them him or her hnbefe resply provided the sd (T) or, &c. shall and may subject and witht prejudice to the life int of my sd wife apply the int, &c. or a competent pt thof for their maintenance, &c. And I direct that in the mean time and until all and evy my sd sons and daurs shall by virtue of this my will have resply taken vested ints or a vested int in the portions hnbefe resply provided for them or until the expiration of yrs from the time of my dece which shall first happen the sd (T) or the survor, &c. but subject, &c. to the life int of my sd wife as afd shall and may lay out and invest so much of the int divds, &c. to arise from such portion or portions resply as shall remain after answering the purposes afd in the names or name of

Trade.

Accumulation for grand-children.

As to vested interests.

Accumulation for children.

(a) Or, where a separate clause for maintenance, &c. has been or is to be given, say, 'shall rece the int and divds of the sd trust mos or such pt thereof as shall be unapplied or undisposed of under or by virtue of the trusts and provisions hnbefe (or 'hnaft,' as the case may be) decld and lay out and invest, &c. as above.

Trade. them the sd (T) or, &c. in any of the stocks, &c. so that the same may accumulate in the nature of compound int and shall and may from time to time alter, &c. the same at their or his discretion And shall stand and be possessed of, &c. the same accumulatory stocks, &c. and the int, &c. thof Upon and for such trusts intents and purps and with under and subject to such powers provos and declons as have been expsd and decid of and concerning the stocks, &c. from which such accumulations shall proceed or as near thereto as the deaths of pties or circumstances shall permit And I furr direct that if at the expiration of yrs from the time of my dece the portions hnbefe provided for my sd chiln resply shall not have become vested Then and in such case the sd (T) or, &c. shall in the mean time and until such portions shall have become so resply vested as afd pay the int divds and annual produce of the portion or portions which shall not have become vested as afd to the child or chiln who would have been entitled to such portion or portions if the same had become vested *Provided always* and I furr declare that (subject, &c. to the life int of my sd wife therein) it shall be lful for the sd (T) or, &c. (to advance pt of portions by way of preferment; also proviso that rects of trustees shall be sufficient discharges; for appointment of or. trustees by wife during her life and trustees after her decease, indemnity of trustees, &c. see *Gen. Prec.* and also *Settlements, Gen. Prec.*) And I do hby nominate, &c. (*wife and trustees*) to be executors of this my will *In Witness, &c.*

APPENDIX.

3 & 4 WILLIAM IV. c. 74.

An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance.

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lord's spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, That in the construction of this Act the word "lands" shall extend to manors, advowsons, rectories, messuages, lands, tenements, tithes, rents and hereditaments, of any tenure (except copy of court roll) and whether corporeal or incorporeal, and any undivided share thereof; but when accompanied by some expression including or denoting the tenure by copy of court roll, shall extend to manors, messuages, lands, tenements and hereditaments, of that tenure, or any undivided share thereof; and the word "estate" shall extend to an estate in equity as well as at law, and shall also extend to any interest, charge, lien, or incumbrance, in, upon, or affecting money subject to be invested in the purchase of lands; and the expression "base fee" shall mean exclusively that estate in fee simple into which an estate tail is converted, where the issue in tail are barred; but persons claiming estates by way of remainder or otherwise, are not barred; and the expression "estate tail," in addition to its usual meaning, shall mean a base fee into which an estate tail shall have been converted; and the expression "actual tenant in tail" shall mean exclusively the tenant of an estate tail, which shall not have been barred, and such tenant shall be deemed an actual tenant in tail, although the estate tail may have been divested or turned to a right; and the expression "tenant in tail" shall mean not only an actual tenant in tail, but also a person who, when an estate tail shall have been barred and converted into a base fee, would have been tenant of such estate tail if the same had not been barred; and the expression "tenant in tail entitled to a base fee" shall mean a person entitled to a base fee, or to the ultimate beneficial interest in a base fee, and who, if the

Meaning of certain words and expressions.

"Lands."

"Estate."

"Base fee."

"Actual tenant in tail."

"Tenant in tail."

"Tenant in tail entitled to a base fee."

- Abolition of Fines, &c.* base fee had not been created, would have been actual tenant in tail; and the expression "money subject to be invested in the purchase of lands" shall include money, whether raised or to be raised, and whether the amount thereof be or be not ascertained, and shall extend to stocks and funds, and real and other securities, the produce of which is directed to be invested in the purchase of lands, and the lands to be purchased with such money, shall extend to such lands held by copy of court roll, and also to lands of any tenure in Ireland, or elsewhere out of England, where such lands are within the scope or meaning of the trust or power directing or authorizing the purchase; and the word
- "Money." "person" shall extend to a body politic, corporate or collegiate, as well as an individual; and every word importing the singular number only, shall extend and be applied to several persons or things; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male; and every assurance already made or hereafter to be made, whether by deed or will, or private Act of Parliament, or otherwise, by which lands are or shall be entailed or agreed to be entailed shall be deemed a settlement, and every appointment made in exercise of any power contained in any settlement or of any other power arising out of the power contained in any settlement, shall be considered as part of such settlement, and the estate created by such appointment shall be considered as having been created by such settlement; and where any such settlement is or shall be made by will, the time of the death of the testator shall be considered the time when such settlement was made: Provided always that those words and expressions occurring in this clause, to which more than one meaning is to be attached, shall not have the different meanings given to them by this clause, in those cases in which there is anything in the subject or context repugnant to such construction.
- "Person." Settlement.
- Number and gender.
- No fine or recovery to be levied or suffered after the 31st of Dec. 1835.
- II. And (a) be it further enacted, that after the twenty-first day of December, one thousand eight hundred and thirty-three, no fine shall be levied or common recovery suffered of lands of any tenure, except where parties intending to levy a fine or suffer a common recovery, shall on or before the thirty-first day of December, one thousand eight hundred and thirty-three, have sued out a writ of *dedimus* or any other

(a) See Fines and Recoveries, Pref. § 1.

writ, in the regular proceedings of such fine or recovery; and every fine or common recovery which shall be levied or suffered contrary to this provision, shall be absolutely void.

*Substitute
for Fines,
&c.*

III. And (a) be it further enacted, That in case any person shall, after the thirty-first day of December, one thousand eight hundred and thirty-three, be liable to levy a fine or suffer a common recovery of lands of any tenure, or to procure some other person to levy a fine, or suffer a common recovery of lands of any tenure, under a covenant or agreement already entered into or hereafter to be entered into before the first day of January, one thousand eight hundred and thirty-four, then and in such case, if all the purposes intended to be effected by such fine or recovery can be effected by a disposition under this Act, the person liable to levy such fine or to suffer such recovery, shall after the thirty-first day of December, one thousand eight hundred and thirty-three, be subject and liable under such covenant or agreement, to make or to procure to be made such a disposition under this Act, as will effect all the purposes intended to be effected by such fine or recovery; but if some only of the purposes intended to be effected by such fine or recovery can be effected by a disposition under this Act, then the person so liable to levy such fine or suffer such recovery or to procure some other person to levy such fine or suffer such recovery as aforesaid, shall after the thirty-first day of December, one thousand eight hundred and thirty-three, be subject and liable under such covenant or agreement, to make or procure to be made such a disposition under this Act, as will effect such of the purposes intended to be effected by such fine or recovery as can be effected by a disposition under this Act; and in those cases where the purposes intended to be effected by such fine or recovery, or any of them cannot be effected by any disposition under this Act, then the person so liable to levy such fine or suffer such recovery, or to procure some person to levy such fine or suffer such recovery as aforesaid, shall, after the thirty-first day of December, one thousand eight hundred and thirty-three, be liable under such covenant or agreement, to execute or procure to be executed, some deed whereby the person intended to levy such fine or suffer such recovery, shall declare his desire, that such deed shall have the same operation and effect, as such fine or recovery would have had, if the same had been actually levied or suf-

Persons liable after 31st Dec. 1833, to levy fines or suffer recoveries under covenants to effect the purposes intended by means of this Act; but in any case where the purpose of a fine or recovery cannot be so effected, the persons liable to levy fines or suffer recoveries shall execute a deed, which shall have the same operation as the fine or recovery.

(a) See Fines and Recoveries, Pref. § 1.

*Validity
of Fines,
&c.*

ferred; and the deed by which such declaration shall be made, shall, if none of the purposes intended to be effected by such fine or recovery can be effected by a disposition under this Act, have the same operation and effect in every respect, as such fine or recovery would have had if the same had been actually levied or suffered; but if some only of the purposes intended to be effected by such fine and recovery, can be effected by a disposition under this Act, then the deed by which such declaration shall be made, shall so far as the purposes intended to be effected by such fine or recovery cannot be effected by a disposition under this Act, have the same operation and effect in every respect, as such fine or recovery would have had if the same had been actually levied or suffered.

Fines and recoveries of lands in ancient demesne when levied or suffered in a superior court, may be reversed as to the lord by writs of deceit the proceedings in which are now pending, or by writs of deceit hereafter to be brought, but shall be as valid against the parties thereto, and persons claiming under them as if not reversed as to the lord.

IV. And be it further enacted, That no fine already levied in a superior court of lands of the tenure of ancient demesne which hath not been reversed, and no fine hereafter to be levied of lands of that tenure, shall upon a writ of deceit already brought by the lord of the manor of which the lands were parcel, the proceedings in which are now pending, or upon a writ of deceit which at any time after the passing of this Act may be brought by the lord of the said manor, be reversed as to any person except the lord of the said manor, and the court shall order such fine to be vacated only as to the lord of the said manor; and every such fine which may be reversed as to the lord of the said manor upon such writ of deceit as aforesaid, shall still remain as good and valid against, and as binding upon the co-nors thereof, and all persons claiming under them, as such fine would have been if the same had not been reversed by such writ of deceit as aforesaid; and no common recovery already suffered in a superior court of lands of the tenure of ancient demesne which hath not been reversed, and no common recovery hereafter to be suffered of lands of that tenure, shall upon a writ of deceit already brought by the lord of the manor of which the lands were parcel, the proceedings in which are now pending, or upon a writ of deceit which at any time after the passing of this Act may be brought by the lord of the said manor, be reversed as to any person except the lord of the said manor, and the court shall order such recovery to be vacated only as to the lord of the said manor; and every such recovery which may be reversed as to the lord of the said manor, upon such writ of deceit as aforesaid, shall still remain as good and valid against, and as binding upon the vouches thereto, and all persons claiming under them as such

recovery would have been if the same had not been reversed by such writ of deceit as aforesaid.

V. And be it further enacted, That if at any time before or after the passing of this Act, a fine or common recovery shall have been levied or suffered, or shall be levied or suffered in a superior court of lands of the tenure of ancient demesne, and subsequently to the levying or suffering thereof, a fine or common recovery shall have been or shall be levied or suffered of the same lands in the court of the lord of the manor, of which the lands had been previously parcel, and the fine and common recovery levied or suffered in such superior court, shall not have been reversed previously to the levying of the fine or the suffering of the common recovery in the lord's court, then and in every such case the fine or common recovery levied or suffered in the lord's court shall, notwithstanding the change of the tenure by the fine or common recovery previously levied or suffered in the superior court, be as good, valid and binding as the same would have been if the tenure had not been altered or changed; and that in every other case where any fine or common recovery shall, at any time before the passing of this Act, have been levied or suffered in a court whose jurisdiction does not extend to the lands of which such fine or recovery shall have been levied or suffered, such fine or recovery shall not be invalid in consequence of its having been suffered in such court, and such court shall be deemed of sufficient jurisdiction for all the purposes of such fine or recovery; and in every other case where persons shall have assumed to hold courts in which fines or common recoveries have been levied or suffered, and such courts shall be unlawful, or held without due authority, the fines or common recoveries which, at any time before the passing of this Act, may have been levied or suffered in such unlawful or unauthorized courts, shall not be invalid in consequence of their having been levied or suffered therein, and such courts shall be deemed courts of sufficient jurisdiction for all the purposes of such fines or recoveries.

VI. And be it further enacted, That in every case in which, at any time, either before or after the passing of this Act, the tenure of ancient demesne has been or shall be suspended or destroyed by the levying of a fine or the suffering of a common recovery of lands of that tenure in a superior court, and the lord of the manor of which the lands, at the time of levying such fine or suffering such recovery, were parcel, shall not reverse the same before the first day of January, one thousand

*Validity
of Fines,
&c.*

Fines and recoveries of lands in ancient demesne, levied or suffered in the manor court, after other fines and recoveries in a superior court shall be as valid as if the tenure had not been changed. Fines and recoveries shall not be invalid in other cases, though levied in courts whose jurisdictions may not extend to the lands comprised therein.

Tenure of ancient demesne where suspended or destroyed by fine or recovery in a superior court restored in

*Validity
of Fines,
&c.*

cases in
which the
rights of
the lord of
the manor
shall have
been recog-
nized
within 20
years.

eight hundred and thirty-four, and shall not, by any law in force, on the first day of this session of Parliament, be barred of his right to reverse the same such lands, provided within the last twenty years immediately preceding the first day of January, one thousand eight hundred and thirty-four, the rights of the lord of the manor, of which they shall have been parcel, shall in any manner have been acknowledged or recognized as to the same lands shall, from the said first day of January, one thousand eight hundred and thirty-four, again become parcel of the said manor, and be subject to the same heriots, rents, and services as they would have been subject to if such fine or recovery had not been levied or suffered, and no writ of deceit for the reversal of any fine or common recovery shall be brought after the thirty-first day of December, one thousand eight hundred and thirty-three.

Fines made
valid with-
out amend-
ment.

VII. And be it further enacted, That if it shall be apparent from the deed, declaring the uses of any fine already levied, or hereafter to be levied, that there is in the indentures, record or any of the proceedings of such fine, any error in the name of the consor or conusee of such fine, then and in every such case the fine, without any amendment of the indentures, record or proceedings in which such error, misdescription or omission shall have occurred, shall be as good and valid as the same would have been, and shall be held to have passed all the lands intended to have been passed thereby, in the same manner as it would have done if there had been no such error, misdescription or omission.

Recoveries
made valid
without
amend-
ment

VIII. And be it further enacted, That if it shall be apparent from the deed, making the tenant to the writ of entry or other writ for suffering a common recovery already suffered or hereafter to be suffered, that there is in the exemplification, record, or any of the proceedings of such recovery, any error in the name of the tenant, demandant or vouchee in such recovery, or any misdescription or omission of lands intended to have been passed by such recovery, then and in every such case the recovery without any amendment of the exemplification, record or proceedings in which such error misdescription or omission shall have occurred, shall be as good and valid as the same would have been, and shall be held to have passed all the lands intended to have been passed thereby, in the same manner as it would have done if there had been no such error, misdescription or omission.

Saving juri-
sdiction
in cases not
provided for

IX. Provided always and be it further enacted, That nothing in this Act contained shall lessen or take away

the jurisdiction of any court to amend any fine or common recovery, or any proceeding therein, in cases not provided for by this Act.

Invalidity of Fines, &c.

X. And be it further enacted, That no common recovery already suffered, or hereafter to be suffered, shall be invalid, in consequence of the neglect to enrol, in due time, a bargain and sale, purporting to make the tenant to the writ of entry, or other writ for suffering such recovery, provided such recovery would have been valid if the bargain and sale purporting to make the tenant to the writ had been duly enrolled.

Recoveries made valid in certain cases where bargain and sale is not enrolled.

XI. And be it further enacted, That no common recovery already suffered, or hereafter to be suffered, shall be invalid, in consequence of any person in whom an estate at law was outstanding, having omitted to make the tenant to the writ of entry, or other writ for suffering such recovery, provided the person who was the owner of, or had power to dispose of, an estate in possession, not being less than an estate for life or lives in the whole of the rents and profits of the lands in which such estate at law was outstanding, or the ultimate surplus of such rents and profits, after payment of any charges thereout, and whether any surplus, after payment of such charges, shall actually remain or not, shall, within the time limited for making the tenant to the writ for suffering such recovery, have conveyed or disposed of such estate in possession to the tenant to such writ; and an estate shall be deemed to be an estate in possession, notwithstanding there shall be subsisting prior thereto any lease for lives or years, absolute or determinable, upon which a rent is reserved, or any term of years upon which no rent is reserved.

Recoveries invalid, in consequence of there not being proper tenants to the writs of entry, made valid in certain cases.

XII. Provided always and be it further enacted, That where any fine or common recovery shall, before the passing of this Act, have been wholly reversed, such fine or recovery shall not be made valid by this Act; and where any fine or common recovery shall, before the passing of this Act, have been reversed as to some only of the parties thereto, or as to some only of the lands therein comprised, such fine or recovery shall not be rendered valid by this Act, so far as the same shall have been reversed, and where any person who would have been barred by any fine or common recovery, if valid, shall, before the passing of this Act, have had any dealings with the lands comprised in such fine or recovery, on the faith of the same being invalid, such fine or recovery, shall not be made valid by this Act; and this Act shall not render valid any fine or common recovery as to lands of which any person shall, at the time of the

Certain cases in which fines and recoveries shall not be made valid by this Act.

*Records
of Fines,
&c.*

passing of this Act, be in possession in respect of any estate which the fine or common recovery, if valid, would have barred, nor any fine or common recovery which, before the passing of this Act, any court of competent jurisdiction shall have refused to amend; nor shall this Act prejudice or affect any proceedings at law or in equity pending at the time of the passing of this Act, in which the validity of such fine or recovery shall be in question between the party claiming under such fine or recovery and the party claiming adversely thereto, and such fine or recovery, if the result of such proceedings shall be to invalidate the same, shall not be rendered valid by this Act; and if such proceedings shall abate or become defective in consequence of the death of the party claiming under or adversely to such fine or recovery, any person who, but for this Act, would have a right of action or suit, by reason of the invalidity of such fine or recovery, shall retain such right, so that he commence proceedings within six calendar months after the death of such party.

As to the records of fines and recoveries in the courts of Common Pleas at Westminster and Lancaster, and the Court of Pleas at Durham, after the 31st of Dec. 1833.

XIII. And be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, the records of all fines and common recoveries levied and suffered in his Majesty's Court of Common Pleas at Westminster, and all the proceedings thereof, shall be deposited in such places, and kept by such persons as the said Court of Common Pleas shall from time to time order or direct; and the records of all fines and recoveries levied and suffered in his Majesty's Court of Common Pleas at Lancaster, and all the proceedings thereof, shall be deposited in such places, and kept by such persons as his Majesty's justices of assize for the county palatine of Lancaster for the time being shall from time to time order and direct; and the records of all fines and common recoveries levied and suffered in the Court of Pleas of the county palatine of Durham, and all the proceedings thereof shall be deposited in such places and kept by such persons as the said Court of Pleas shall from time to time order and direct; and in the mean time the said records and proceedings shall remain in the same places respectively where they are now deposited, and be kept by the respective persons who would have continued entitled to the custody thereof if this Act had not been passed; and while the said records and proceedings respectively shall be kept by such persons respectively, searches may be made and extracts and copies obtained as heretofore, and on paying the accustomed fees; and when any of the records and proceed-

ings shall, by order of the court, or justices having the control over the same, be kept by any other person, then, so far as relates to the records and proceedings in the custody of such other person, searches may be made and extracts or copies obtained at such times, and on paying such fees as shall from time to time be ordered by the court or justices having the control over the same; and the extracts or copies so obtained shall be as available in evidence as they would have been if obtained from the person whose duty it would have been to have made and delivered out the same if this Act had not been passed.

Warranty abolished.

XIV. And be it further enacted, That all warranties (a) of lands which, after the thirty-first day of December, one thousand eight hundred and thirty-three, shall be made or entered into by any tenant in tail thereof, shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination, or in defeasance of the estate tail.

Estates tail, and estates expectant thereon, no longer bar-able by warranty.

XV. And (b) be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, every actual tenant in tail, whether in possession, remainder, contingency or otherwise, shall have full power to dispose of, for an estate in fee-simple, absolute, or for any less estate, the lands entailed as against all persons claiming the lands entailed by force of any estate tail which shall be vested in or might be claimed by, or which, but for some previous Act, would have been vested in or might have been claimed by the person making the disposition at the time of his making the same; and also as against all persons, including the King's most excellent Majesty, his heirs and successors, whose estates are to take effect after the determination or in defeasance of any such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition shall be made, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made.

Power after the 31st of Dec. 1833, to dispose of lands entailed in fee-simple, or for a less estate, saving the rights of certain persons.

XVI. Provided always and be it further enacted, That where (under any settlement made before the passing of this Act) any woman shall be tenant in tail of lands within the provisions of an Act passed in the eleventh year of his Majesty King Henry the Seventh, intituled, "Certain Alienations made by the Wife of the Lands of her deceased Husband shall be void;" the

Power of disposition not to be exercised by women tenants in tail, ex provisione viri, under 11 H. VII. c. 20, except with assent.

(a) As to warranty, see *Feoffments*, Pref. § 5.

(b) As to this and the subsequent clauses, see *Fines and Recoveries*, Pref. § 3.

*Records
of Fines,
&c.*

passing of this Act, be in possession in respect of any estate which the fine or common recovery, if valid, would have barred, nor any fine or common recovery which, before the passing of this Act, any court of competent jurisdiction shall have refused to amend; nor shall this Act prejudice or affect any proceedings at law or in equity pending at the time of the passing of this Act, in which the validity of such fine or recovery shall be in question between the party claiming under such fine or recovery and the party claiming adversely thereto, and such fine or recovery, if the result of such proceedings shall be to invalidate the same, shall not be rendered valid by this Act; and if such proceedings shall abate or become defective in consequence of the death of the party claiming under or adversely to such fine or recovery, any person who, but for this Act, would have a right of action or suit, by reason of the invalidity of such fine or recovery, shall retain such right, so that he commence proceedings within six calendar months after the death of such party.

As to the
records of
fines and
recoveries
in the
courts of
Common
Pleas at
Westmin-
ster and
Lancaster,
and the
Court of
Pleas at
Durham,
after the
31st of Dec.
1833.

XIII. And be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, the records of all fines and common recoveries levied and suffered in his Majesty's Court of Common Pleas at Westminster, and all the proceedings thereof, shall be deposited in such places, and kept by such persons as the said Court of Common Pleas shall from time to time order or direct; and the records of all fines and recoveries levied and suffered in his Majesty's Court of Common Pleas at Lancaster, and all the proceedings thereof, shall be deposited in such places, and kept by such persons as his Majesty's justices of assize for the county palatine of Lancaster for the time being shall from time to time order and direct; and the records of all fines and common recoveries levied and suffered in the Court of Pleas of the county palatine of Durham, and all the proceedings thereof shall be deposited in such places and kept by such persons as the said Court of Pleas shall from time to time order and direct; and in the mean time the said records and proceedings shall remain in the same places respectively where they are now deposited, and be kept by the respective persons who would have continued entitled to the custody thereof if this Act had not been passed; and while the said records and proceedings respectively shall be kept by such persons respectively, searches may be made and extracts and copies obtained as heretofore, and on paying the accustomed fees; and when any of the records and proceed-

ings shall, by order of the court, or justices having the control over the same, be kept by any other person, then, so far as relates to the records and proceedings in the custody of such other person, searches may be made and extracts or copies obtained at such times, and on paying such fees as shall from time to time be ordered by the court or justices having the control over the same; and the extracts or copies so obtained shall be as available in evidence as they would have been if obtained from the person whose duty it would have been to have made and delivered out the same if this Act had not been passed. *Warranty abolished.*

XIV. And be it further enacted, That all warranties (a) of lands which, after the thirty-first day of December, one thousand eight hundred and thirty-three, shall be made or entered into by any tenant in tail thereof, shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination, or in defeasance of the estate tail. *Estates tail, and estates expectant thereon, no longer barable by warranty.*

XV. And (b) be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, every actual tenant in tail, whether in possession, remainder, contingency or otherwise, shall have full power to dispose of, for an estate in fee-simple, absolute, or for any less estate, the lands entailed as against all persons claiming the lands entailed by force of any estate tail which shall be vested in or might be claimed by, or which, but for some previous Act, would have been vested in or might have been claimed by the person making the disposition at the time of his making the same; and also as against all persons, including the King's most excellent Majesty, his heirs and successors, whose estates are to take effect after the determination or in defeasance of any such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition shall be made, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made. *Power after the 31st of Dec. 1833, to dispose of lands entailed in fee-simple, or for a less estate, saving the rights of certain persons.*

XVI. Provided always and be it further enacted, That where (under any settlement made before the passing of this Act) any woman shall be tenant in tail of lands within the provisions of an Act passed in the eleventh year of his Majesty King Henry the Seventh, intituled, "Certain Alienations made by the Wife of the Lands of her deceased Husband shall be void;" the *Power of disposition not to be exercised by women tenants in tail, ex privilegio virtutis, under 11 H. VII. c. 20, except with assent.*

(a) As to warranty, see *Fcoffments*, Pref. § 5.

(b) As to this and the subsequent clauses, see *Fines and Recoveries*, Pref. § 3.

*Records
of Fines,
&c.*

passing of this Act, be in possession in respect of any estate which the fine or common recovery, if valid, would have barred, nor any fine or common recovery which, before the passing of this Act, any court of competent jurisdiction shall have refused to amend; nor shall this Act prejudice or affect any proceedings at law or in equity pending at the time of the passing of this Act, in which the validity of such fine or recovery shall be in question between the party claiming under such fine or recovery and the party claiming adversely thereto, and such fine or recovery, if the result of such proceedings shall be to invalidate the same, shall not be rendered valid by this Act; and if such proceedings shall abate or become defective in consequence of the death of the party claiming under or adversely to such fine or recovery, any person who, but for this Act, would have a right of action or suit, by reason of the invalidity of such fine or recovery, shall retain such right, so that he commence proceedings within six calendar months after the death of such party.

As to the records of fines and recoveries in the courts of Common Pleas at Westminster and Lancaster, and the Court of Pleas at Durham, after the 31st of Dec. 1833.

XIII. And be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, the records of all fines and common recoveries levied and suffered in his Majesty's Court of Common Pleas at Westminster, and all the proceedings thereof, shall be deposited in such places, and kept by such persons as the said Court of Common Pleas shall from time to time order or direct; and the records of all fines and recoveries levied and suffered in his Majesty's Court of Common Pleas at Lancaster, and all the proceedings thereof, shall be deposited in such places, and kept by such persons as his Majesty's justices of assize for the county palatine of Lancaster for the time being shall from time to time order and direct; and the records of all fines and common recoveries levied and suffered in the Court of Pleas of the county palatine of Durham, and all the proceedings thereof shall be deposited in such places and kept by such persons as the said Court of Pleas shall from time to time order and direct; and in the mean time the said records and proceedings shall remain in the same places respectively where they are now deposited, and be kept by the respective persons who would have continued entitled to the custody thereof if this Act had not been passed; and while the said records and proceedings respectively shall be kept by such persons respectively, searches may be made and extracts and copies obtained as heretofore, and on paying the accustomed fees; and when any of the records and proceed-

ings shall, by order of the court, or justices having the control over the same, be kept by any other person, then, so far as relates to the records and proceedings in the custody of such other person, searches may be made and extracts or copies obtained at such times, and on paying such fees as shall from time to time be ordered by the court or justices having the control over the same; and the extracts or copies so obtained shall be as available in evidence as they would have been if obtained from the person whose duty it would have been to have made and delivered out the same if this Act had not been passed. *Warranty abolished.*

XIV. And be it further enacted, That all warranties (a) of lands which, after the thirty-first day of December, one thousand eight hundred and thirty-three, shall be made or entered into by any tenant in tail thereof, shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination, or in defeasance of the estate tail. *Estates tail, and estates expectant thereon, no longer barable by warranty.*

XV. And (b) be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, every actual tenant in tail, whether in possession, remainder, contingency or otherwise, shall have full power to dispose of, for an estate in fee-simple, absolute, or for any less estate, the lands entailed as against all persons claiming the lands entailed by force of any estate tail which shall be vested in or might be claimed by, or which, but for some previous Act, would have been vested in or might have been claimed by the person making the disposition at the time of his making the same; and also as against all persons, including the King's most excellent Majesty, his heirs and successors, whose estates are to take effect after the determination or in defeasance of any such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition shall be made, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made. *Power after the 31st of Dec. 1833, to dispose of lands entailed in fee-simple, or for a less estate, saving the rights of certain persons.*

XVI. Provided always and be it further enacted, That where (under any settlement made before the passing of this Act) any woman shall be tenant in tail of lands within the provisions of an Act passed in the eleventh year of his Majesty King Henry the Seventh, intituled, "Certain Alienations made by the Wife of the Lands of her deceased Husband shall be void;" the *Power of disposition not to be exercised by women tenants in tail, ex provisione viri, under 11 H. VII. c. 20, except with assent.*

(a) As to warranty, see *Feoffments*, Pref. § 5.

(b) As to this and the subsequent clauses, see *Fines and Recoveries*, Pref. § 3.

*Aliena-
tion by
Tenant in
Tail.*

Except as to
lands in
settlement
before this
Act, the 11
H.VII.c. 20,
repealed.

The power
of disposi-
tion not to
extend to
certain te-
nants in
tail.

Power, af-
ter the 31st
of Dec.
1833, to
enlarge
base fees,
saving the
rights of
certain per-
sons.

Issue inhe-
ritable not
to bar ex-
pectancies.

Extent of
the estate
created by
a tenant in
tail by way
of mort-
gage, or for

power of disposition hereinbefore contained as to such lands shall not be exercised by her, except with such assent as, if this Act had not been passed, would, under the provisions of the said Act of King Henry the Seventh, have rendered valid a fine or common recovery levied or suffered by her of such lands.

XVII. Provided always and be it further enacted, That except as to lands comprised in any settlement made before the passing of this Act, the said Act of the eleventh year of the reign of his Majesty King Henry the Seventh, shall be and is hereby repealed.

XVIII. Provided always and be it further enacted, That the power of disposition hereinbefore contained shall not extend to tenants of estates tail who, by an Act passed in the thirty-fourth and thirty-fifth years of the reign of his Majesty King Henry the Eighth, intituled, "An Act to embar feigned Recovery of Lands wherein the King is in Reversion;" or by any other Act are restrained from barring their estates tail, or to tenants in tail after possibility of issue extinct.

XIX. And be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, in every case in which an estate tail in any lands shall have been barred and converted into a base fee, either before or on or after that day, the person who, if such estate tail had not been barred, would have been actual tenant in tail of the same lands, shall have full power to dispose of such lands as against all persons, including the King's most excellent Majesty, his heirs and successors, whose estates are to take effect after the determination or in defeasance of the base fee into which the estate tail shall have been converted, so as to enlarge the base fee into a fee simple absolute, saving always the rights of all persons in respect of estates prior to the estates tail which shall have been converted into a base fee, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made.

XX. Provided always and be it further enacted, That nothing in this Act contained shall enable any person to dispose of any lands entailed in respect of any expectant interest which he may have as issue inheritable to any estate tail therein.

XXI. Provided always and be it further enacted, That if a tenant in tail of lands shall make a disposition of the same under this Act, by way of mortgage, or for any other limited purpose, then and in such case such disposition shall, to the extent of the estate thereby created, be an absolute bar in equity, as well as at law,

to all persons as against whom such disposition is by this Act authorized to be made, notwithstanding any intention to the contrary may be expressed or implied in the deed by which the disposition may be effected; provided always that if the estate created by such disposition shall be only an estate *pur autre vie*, or for years absolute or determinable, or if by a disposition under this Act by a tenant in tail of lands an interest charge, lien, or incumbrance shall be created without a term of years, absolute or determinable, or any greater estate for securing or raising the same, then such disposition shall, in equity, be a bar only so far as may be necessary to give full effect to the mortgage, or to such other limited purpose, or to such interest, lien, charge or incumbrance, notwithstanding any intention to the contrary may be expressed or implied in the deed by which the disposition may be effected.

Protector-ship.

any other limited purpose.

XXII. And (a) be it further enacted, That if at the time when there shall be a tenant in tail of lands, under a settlement, there shall be subsisting in the same lands, or any of them, under the same settlement, any estate for years, determinable on the dropping of a life or lives, or any greater estate (not being an estate for years) prior to the estate tail, then the person who shall be the owner of the prior estate, or the first of such prior estates, if there be more than one then subsisting under the same settlement, or who would have been so if no absolute disposition thereof had been made (the first of such prior estates, if more than one, being for all the purposes of this Act deemed the prior estate) shall be the protector of the settlement so far as regards the lands in which such prior estate shall be subsisting, and shall for all the purposes of this Act be deemed the owner of such prior estate, although the same may have been charged or incumbered either by the owner thereof, or by the settlor, or otherwise howsoever, and although the whole of the rents and profits be exhausted or required for the payment of the charges and incumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner; and that an estate by the courtesy in respect of the estate tail, or of any prior estate created by the settlement, shall be deemed a prior estate under the same settlement within the meaning of this clause; and that an estate by way of resulting use

The owner of the first existing estate, under a settlement, prior to the estate tail, under the same settlement, to be the protector of the settlement.

(a) As to this and the subsequent clauses, see *Fines and Recoveries*, Pref. § 4, and *Precedents*, vol. ii. p. 90.

Protectorship. or trust, to or for the settlor, shall be deemed an estate under the same settlement within the meaning of this clause.

Each of two or more owners of a prior estate to be the sole protector as to his share.

XXIII. Provided always and be it further enacted, That where two or more persons shall be owners under a settlement within the meaning of this Act of a prior estate, the sole owner of which estate, if there had been only one, would, in respect thereof, have been the protector of such settlement, each of such persons in respect of such undivided share as he could dispose of, shall, for all the purposes of this Act, be deemed the owner of a prior estate, and shall, in exclusion of the other or others of them, be the sole protector of such settlement to the extent of such undivided share.

Where a married woman alone shall be the protector, and where she and her husband together shall be protector.

XXIV. Provided always and be it further enacted, That where a married woman would, if single, be the protector of a settlement in respect of a prior estate which is not thereby settled or agreed or directed to be settled to her separate use, she and her husband together shall, in respect of such estate, be the protector of such settlement, and shall be deemed one owner; but if such prior estate shall, by such settlement, have been settled or agreed, or directed to be settled to her separate use, then and in such case she alone shall, in respect of such estate, be the protector of such settlement.

As to estates confirmed or restored by settlement.

XXV. Provided always and be it further enacted, That, except in the case of a lease hereinafter provided for, where an estate shall be limited by a settlement by way of confirmation, or where the settlement shall merely have the effect of restoring an estate, in either of those cases such estate shall, for the purposes of this Act, so far as regards the protector of the settlement, be deemed an estate subsisting under such settlement.

As to leases at rent created by settlement.

XXVI. Provided always and be it further enacted, That where a lease, at a rent, shall be created or confirmed by a settlement, the person in whose favour such lease shall be created or confirmed shall not, in respect thereof, be the protector of such settlement.

No tenant in dower, heir, executor, &c. to be protector, except in the case of a bare trustee.

XXVII. Provided always and be it further enacted, That no woman, in respect of her dower and (except in the case hereinafter provided for of a bare trustee, under a settlement made on or before the thirty-first day of December, one thousand eight hundred and thirty-three) no bare trustee, heir, executor, administrator or assign, in respect of any estate taken by him as such bare trustee, heir, executor, administrator or assign, shall be the protector of a settlement.

XXVIII. Provided always and be it further enacted,

That when, under any settlement, there shall be more than one estate prior to an estate tail, and the person who shall be the owner, within the meaning of this Act, of any such prior estate, in respect of which, but for the two last clauses, or either of them, he would have been the protector of the settlement, shall, by virtue of such clauses, or either of them, be excluded from being the protector, then and in such case the person (if any) who, if such estate did not exist, would be the protector of the settlement, shall be such protector.

XXIX. Provided always and be it further enacted, That where already, or on or before the thirty-first day of December, one thousand eight hundred and thirty-three, an estate under a settlement shall have been disposed of, either absolutely or otherwise, and either for valuable consideration or not, the person who, in respect of such an estate, would, if this Act had not been passed, have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of the lands entailed by such settlement shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement.

XXX. Provided always and be it further enacted, That where any person having either already, or on or before the thirty-first day of December, one thousand eight hundred and thirty-three, either for valuable consideration or not, disposed of, either absolutely or otherwise, a remainder or reversion in fee in any lands, or created any estate out of such remainder or reversion, would, under this Act, if this clause had not been inserted, have been the protector of the settlement by which the lands were entailed in which such remainder or reversion may be subsisting, and thereby be enabled to concur in the barring of such remainder or reversion, which he could not have done if he had not become such protector, then, and in every such case, the person who, if this Act had not been passed, would have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of such lands, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement.

XXXI. Provided always and be it further enacted, That where, under any settlement of lands made before the passing of this Act, the person who, if this Act had not been passed, would have been the proper person to

Protectorship.

Who shall be the protector, where the owner of the prior estate shall, by the two last clauses, be excluded.

Where in the disposition of an estate before the 31st Dec. 1833, the person to make the tenant to the writ of entry in a recovery shall be the protector.

Where, in the case of the disposition of a reversion, on or before the 31st of Dec., the person to make the tenant to the writ of entry in a recovery shall be the protector.

Where a bare trustee under a settlement made be-

Protectorship.

fore the passing of this Act shall be the protector.

Power to any settlor to appoint the protector.

make the writ of entry or other writ for suffering a recovery of such lands for the purpose of barring any estate tail or other estate under such settlement, shall be a bare trustee, such trustee shall, during the continuance of the estate conferring on him the right to make the tenant to such writ of entry or other writ, be the protector of such settlement.

XXXII. Provided (a) always and be it further enacted, That it shall be lawful for any settlor entailing lands, to appoint by the settlement by which the lands shall be entailed, any number of persons in esse, not exceeding three, and not being aliens, to be protector of the settlement, in lieu of the person who would have been the protector if this clause had not been inserted, and either for the whole or any part of the period for which such person might have continued protector, and, by means of a power to be inserted in such settlement, to perpetuate, during the whole or any part of such period, the protectorship of the settlement in any one person or number of persons in esse, and not being an alien or aliens, whom the donee of the power shall think proper by deed to appoint protector of the settlement, in the place of any one person or number of persons who shall die or shall by deed relinquish his or their office of protector; and the person or persons so appointed shall, in case of there being no other person then protector of the settlement, be the protector, and in case of there being any other person then protector of the settlement, be protector jointly with such other person: provided, nevertheless, that by virtue or means of any such appointment the number of the persons to compose the protector shall never exceed three: provided further, nevertheless, that every deed by which a protector shall be appointed under a power in a settlement, and every deed by which a protector shall relinquish (b) his office, shall be void, unless inrolled in his Majesty's High Court of Chancery within six calendar months after the execution thereof: provided further, nevertheless, that the person who, but for this clause, would have been sole protector of the settlement, may be one of the persons to be appointed protector under this clause, if the settlor shall think fit, and shall, unless otherwise directed by the settlor, act as sole protector, if the other persons constituting the protector shall have ceased to be so by death or relinquishment of the office by deed, and no other person shall have been appointed in their place.

(a) As to the forms, see vol. ii. p. 107.

(b) See Form, vol. ii. p. 122.

XXXIII. Provided always and be it further enacted, That if any person, protector of a settlement, shall be lunatic, idiot, or of unsound mind, and whether he shall have been found such by inquisition or not, then the Lord High Chancellor of Great Britain, or the Lord Keeper, or the Lords Commissioners for the custody of the great seal of Great Britain for the time being, or other the person or persons for the time being entrusted by the King's sign manual with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, shall be the protector of such settlement in lieu of the person who shall be such lunatic or idiot, or of unsound mind as aforesaid; or if any person, protector of a settlement, shall be convicted of treason or felony, or if any person, not being the owner of a prior estate under a settlement, shall be protector of such settlement, and shall be an infant, or if it shall be uncertain whether such last mentioned person be living or dead, then his Majesty's High Court of Chancery shall be the protector of such settlement in lieu of the person who shall be an infant, or whose existence cannot be ascertained as aforesaid; or if any settlor entailing the lands shall, in the settlement by which the lands shall be entailed, declare that the person who, as owner of a prior estate under such settlement would be entitled to be protector of the settlement, shall not be such protector, and shall not appoint any person to be protector in his stead, then the said Court of Chancery shall, as to the lands in which such prior estate shall be subsisting, be the protector of the settlement during the continuance of such estate; or if in any other case where there shall be subsisting, under a settlement, an estate prior to an estate tail under the same settlement, and such prior estate shall be sufficient to qualify the owner thereof to be protector of the settlement, and there shall happen at any time to be no protector of the settlement as to the lands in which the prior estate shall be subsisting, the said Court of Chancery shall, while there shall be no such protector, and the prior estate shall be subsisting, be the protector of the settlement as to such lands.

XXXIV. Provided (a) always and be it further enacted, That if at the time when any person, actual tenant in tail of lands under a settlement, but not entitled to the remainder or reversion in fee immediately expectant on the determination of his estate tail, shall be desirous of making, under this Act, a disposition of

Protectorship.

In cases of lunacy the Lord Chancellor, or Lord Keeper, or Lords Commissioners, or other persons entrusted with lunatics, or in cases of treason or felony, &c. the Court of Chancery to be the protector.

Where there is a protector, his consent requisite to enable an actual tenant in tail

(a) As to this provision, see *Fines and Recoveries*, Pref. § 3, and *Precedent*, vol. ii. 94.

Protectorship. the lands entailed, and there shall be a protector of such settlement, then, and in every such case, the consent of such protector shall be requisite to enable such actual tenant in tail to dispose of the lands entailed to the full extent to which he is hereinbefore authorized to dispose of the same; but such actual tenant in tail may, without such consent, make a disposition under this Act of the lands entailed, which shall be good against all persons who, by force of any estate tail which shall be vested in or might be claimed by, or which, but for some previous act or default, would have been vested in, or might have been claimed by, the person making the disposition at the time of his making the same, shall claim the lands entailed.

to create a larger estate than a base fee.

Where a base fee and a protector, his consent requisite to the exercising of a power of disposition.

XXXV. Provided always and be it further enacted, That where an estate tail shall have been converted into a base fee, in such case so long as there shall be a protector of the settlement by which the estate tail was created, the consent of such protector shall be requisite to enable the person who would have been tenant of the estate tail if the same land had not been barred to exercise, as to the lands in respect of which there shall be such protector, the power of disposition hereinbefore contained.

The protector to be subject to to no controul in the exercise of his power of consenting.

XXXVI. And (a) be it further enacted, That any device, shift, or contrivance by which it shall be attempted to controul the protector of a settlement in giving his consent, or to prevent him in any way from using his absolute discretion in regard to his consent, and also any agreement entered into by the protector of a settlement to withhold his consent shall be void: and that the protector of a settlement shall not be deemed to be a trustee in respect of his power of consent; and a court of equity shall not controul or interfere to restrain the exercise of his power of consent, nor treat his giving his consent as a breach of trust.

Certain rules of equity not to apply between the protector and a tenant in tail under the same.

XXXVII. Provided always and be it further enacted, That the rules of equity in relation to dealings and transactions between the donee of a power and any object of the power in whose favour the same may be exercised, shall not be held to apply to dealings and transactions between the protector of a settlement and a tenant in tail under the same settlement upon the occasion of the protector giving his consent to a disposition by a tenant in tail under this Act.

A voidable estate, by a tenant in

XXXVIII. Provided (b) always and be it further enacted, That when a tenant in tail of lands under a

(a) See *Fines and Recoveries*, Pref. § 5; also *Precedents*, vol. ii. p. 93.

(b) See *Precedent*, vol. ii. p. 90.

settlement shall have already created, or shall hereafter create, in such lands, or any of them, a voidable estate in favour of a purchaser for valuable consideration, and shall afterwards, under this Act, by any assurance other than a lease not requiring enrolment, make a disposition of the lands in which such voidable estate shall be created, or any of them, such disposition, whatever its object may be and whatever may be the extent of the estate intended to be thereby created, shall, if made by the tenant in tail with the consent of the protector (if any) of the settlement, or by the tenant in tail alone if there shall be no such protector, have the effect of confirming such voidable estate in the lands thereby disposed of to its full extent, as against all persons, except those whose rights are saved by this Act; but if at the time of making the disposition there shall be a protector of the settlement, and such protector shall not consent to the disposition, and the tenant in tail shall not, without such consent, be capable, under this Act, of confirming the voidable estate to its full extent, then and in such case such disposition shall have the effect of confirming such voidable estate, so far as such tenant in tail would then be capable, under this Act, of confirming the same without such consent, provided always that if such disposition shall be made to a purchaser for valuable consideration, who shall not have express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed as against such purchaser and the person claiming under him.

XXXIX. And (a) be it further enacted, That if a base fee in any lands, and the remainder or reversion in fee in the same lands, shall at the time of the passing of this Act, or at any time afterwards, be united in the same person, and at any time after the passing of this Act there shall be no intermediate estate between the base fee and the remainder or reversion, then and in such case the base fee shall not merge, but shall be *ipso facto* enlarged into as large an estate as the tenant in tail with the consent of the protector, if any, might have created, by any disposition under this Act, if such remainder or reversion had been vested in some other person.

XL. And (b) be it further enacted, That every disposition of lands under this Act by a tenant in tail thereof, shall be effected by some one of the assurances (not being a will) by which such tenant in tail could have made the disposition if his estate were [had been] an

Protectorship.

tail, in favour of a purchaser, confirmed by a subsequent disposition of such tenant in tail, under this Act, but not against a purchaser without notice.

Base fees when united with the immediate reversions enlarged instead of being merged.

Tenant in tail to make a disposition by deed as if seised in fee, but

(a) See *Fines and Recoveries*, Pref. § 5.

(b) See *Fines and Recoveries*, Pref. § 2.

Protectorship.

not by will or contract, and if a married woman with her husband's concurrence.

estate at law in fee simple absolute: Provided nevertheless that no disposition by tenant in tail shall be of any force either at law or in equity under this Act, unless made or evidenced by deed; and that no disposition by a tenant in tail resting only in contract, either express or implied or otherwise, and whether supported by a valuable consideration or not, shall be of any force at law or in equity under this Act, notwithstanding such disposition shall be made or evidenced by deed; and if the tenant in tail making the disposition shall be a married woman, the concurrence of her husband shall be necessary to give effect to the same, and any deed which may be executed by her, for effecting the disposition, shall be acknowledged by her as hereinafter directed.

Every assurance by a tenant in tail, except a lease not exceeding 21 years at a rack-rent, or not less than five-sixths of a rack-rent, to be inoperative, unless inrolled in Chancery within six months.

27 Hen.
VIII. c. 16.

Consent of the protector to be given by the same assurance, or by a distinct deed.

XLI. (a) Provided always, and be it further enacted, That no assurance by which any disposition of lands shall be effected under this Act by a tenant in tail (except a lease for any term not exceeding twenty-one years, to commence from the date of such lease, or from any time not exceeding twelve calendar months from the date of such lease, where a rent shall be thereby reserved, which at the time of granting such lease, shall be a rack-rent, or not less than five-sixth parts of a rack-rent) shall have any operation under this Act, unless it be inrolled in his Majesty's High Court of Chancery within six calendar months after the execution thereof; and if the assurance by which any disposition of lands shall be effected under this Act shall be a bargain and sale, such assurance, though not inrolled within the time prescribed by the Act passed in the twenty-seventh year of the reign of his Majesty King Henry the Eighth, intituled, "For Inrolment of Bargains and Sales," shall, if inrolled in the said Court of Chancery within the time prescribed by this clause, be as good and valid as the same would have been if the same had been inrolled in the said court within the time prescribed by the said Act of Henry the Eighth.

XLII. And (b) be it further enacted, That the consent of the protector of a settlement to the disposition under this Act of a tenant in tail shall be given, either by the same assurance by which the disposition shall be effected, or by a deed distinct from the assurance; and to be executed either on, or at any time before the day on which the assurance shall be made, otherwise the consent shall be void.

(a) See *Fines and Recoveries*, Pref. § 8.

(b) See *Fines and Recoveries*, Pref. § 5, and *Precedents and Forms*, vol. ii. 93, 121, et seq.

XLIII. And (a) be it further enacted, That if the protector of a settlement shall, by a distinct deed, give his consent to the disposition of a tenant in tail, it shall be considered that such protector has given an absolute and unqualified consent, unless in such deed, he shall refer to the particular assurance by which the disposition shall be effected and shall confine his consent to the disposition thereby made.

XLIV. And be it further enacted, That it shall not be lawful for the protector of a settlement, who under this Act shall have given his consent to the disposition of a tenant in tail, to revoke his consent.

XLV. And (b) be it further enacted, That any married woman being, either alone or jointly with her husband, protector of a settlement may, under this Act, in the same manner as if she were a *feme sole*, give her consent to the disposition of a tenant in tail.

XLVI. Provided always, and be it further enacted, That the consent of a protector to the disposition of a tenant in tail shall, if given by a deed distinct from the assurance by which the disposition shall be effected by the tenant in tail, be void, unless such deed be inrolled in his Majesty's High Court of Chancery, either at or before the time when the assurance shall be inrolled.

XLVII. And be it further enacted, That in cases of dispositions of land under this Act by tenants in tail thereof, and also in cases of consents by protectors of settlements to dispositions of land under this Act by tenants in tail thereof, the jurisdiction of courts of equity shall be altogether excluded, either on the behalf of a person claiming for a valuable or meritorious consideration or not, in regard to the specific performance of contracts and the supplying of defects in the execution either of the powers of disposition given by this Act to tenants in tail, or of the powers of consent given by this Act to protectors of settlements; and the supplying under any circumstances of the want of execution of such powers of disposition and consent respectively, and in regard to giving effect in any other manner, to any act or deed by a tenant in tail or protector of a settlement, which in a court of law would not be an effectual disposition or consent under this Act; and that no disposition of lands under this Act by a tenant in tail thereof in equity, and no consent by a

Protectorship.

If by distinct deed to be considered unqualified, unless he refer to the assurance.

Protector not to revoke his consent.

A married woman protector to consent as a *feme sole*.

Consent of a protector by distinct deed to be void, unless inrolled with or before the assurance.

Courts of equity excluded from giving any effect to dispositions by tenants in tail, or consents of protectors of settlements which in courts of law would not be effectual.

(a) See *Fines and Recoveries*, Pref. § 5, and *Precedents and Forms*, vol. ii. 93, 121, et seq.

(b) See *Fines and Recoveries*, Pref. § 8.

Protectorship.

Lord Chancellor, &c. to have the power to consent to a disposition by a tenant in tail, and to make such orders as shall be thought necessary, and if any other person shall be joint protector, the disposition not to be valid without his consent.

protector of a settlement to a disposition of lands under this Act by a tenant in tail thereof in equity, shall be of any force, unless such disposition or consent would, in case of an estate tail at law, be an effectual disposition or consent under this Act in a court of law.

XLVIII. Provided always, and be it further enacted, That in every case in which the Lord High Chancellor, Lord Keeper, or Lords Commissioners for the custody of the great seal, or other the person or persons intrusted with the care or commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or his Majesty's High Court of Chancery, shall be the protector of a settlement, such Lord Chancellor, Lord Keeper, or Lords Commissioners, or person or persons so intrusted as aforesaid, or the said Court of Chancery, (as the case may be) while protector of such settlement, shall, on motion or petition in a summary way by a tenant in tail under such settlement, have full power to consent to such disposition under this Act by such tenant in tail, and the disposition to be made by such tenant in tail, upon such motion or petition as aforesaid, shall be such as shall be approved of by such Lord High Chancellor, Lord Keeper, or Lords Commissioners, or person or persons so intrusted as aforesaid, or the said Court of Chancery (as the case may be); and it shall be lawful for such Lord High Chancellor, Lord Keeper, or Lords Commissioners, or person or persons so intrusted as aforesaid (as the case may be) to make such orders in the matter as shall be thought necessary; and if such Lord High Chancellor, Lord Keeper, or Lords Commissioners, or person or persons so intrusted as aforesaid, or the said Court of Chancery (as the case may be) shall, in lieu of any such person as aforesaid, be the protector of a settlement, and there shall be any other person protector of the same settlement jointly with such person as aforesaid, then and in every such case the disposition by the tenant in tail, though approved of as aforesaid, shall not be valid, unless such other person, being protector as aforesaid, shall consent thereto in the manner in which the consent of the protector is by this Act required to be given.

Order of the Lord Chancellor to be evidence of consent.

XLIX. Provided always, and be it further enacted, That in every case in which the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the great seal, or other the person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or his Majesty's High Court

of Chancery, shall be the protector of a settlement, no document or instrument as evidence of the consent of such protector to the disposition of a tenant in tail under such settlement, shall be requisite beyond the order in obedience to which the disposition shall have been made.

*Estates
Tail in
Copyholds*

L. And (a) be it further enacted, That all the previous clauses in this Act, so far as circumstances and the different tenures will admit, shall apply to lands held by copy of court roll, except that the disposition of any such lands under this Act by a tenant in tail thereof whose estate shall be an estate at law, shall be made by surrender, and except that a disposition of any such lands under this Act by a tenant in tail thereof whose estate shall be merely an estate in equity, may be made by surrender or by a deed as hereinafter provided, and except so far as such clauses are otherwise altered or varied by the clauses hereinafter contained.

The previous clauses to apply to copyholds with certain variations.

LI. Provided (b) always, and be it further enacted, That if the consent of the protector of a settlement to the disposition of lands held by copy of court roll by a tenant in tail thereof shall be given by deed, such deed shall, either at or before the time when the surrender shall be made by which the disposition shall be effected, be executed by such protector, and produced to the lord of the manor of which the lands are parcel, or to his steward or to the deputy of such steward; and the consent of such protector shall be void, unless such deed shall be so executed and produced; and on the production of the deed, the lord, or steward, or deputy steward, shall by writing under his hand to be indorsed on the deed, acknowledge that the same was produced within the time limited, and shall cause such deed, with the indorsement thereon, to be entered on the court rolls of the manor; and the indorsement purporting to be so signed, shall of itself be *prima facie* evidence that the deed was produced within the time limited, and that the person who signed the indorsement was the lord of the manor, or his steward, or the deputy of such steward; and after such deed shall have been so entered, the lord of the manor, or his steward, or the deputy of such steward, shall indorse thereon a memorandum signed by him testifying the entry of the same on the court-rolls.

As to the deed of consent and the entry of it on the court rolls where the protector of a settlement of copyholds consents by deed to the disposition of a tenant in tail.

LII. Provided (b) always, and be it further enacted,

As to the consent of the protector of a set-

(a) See *Fines and Recoveries*, Pref. § 2, and *Precedent*, vol. ii. p. 108.

(b) See *Precedent*, obs. 2, vol. ii. p. 107.

*Estates
Tail in
Copyholds*

element of
copyholds
when not
given by
deed, and
the preserv-
ing of evi-
dence of the
same on the
court roll.

That if the consent of the protector of a settlement to the disposition of lands held by copy of court roll by a tenant in tail thereof, shall not be given by deed, then and in such case the consent shall be given by the protector to the person taking the surrender by which the disposition shall be effected, and if the surrender shall be made out of court, it shall be expressly stated in the memorandum of such surrender, that such consent had been given, and such memorandum shall be signed by the protector; and the lord of the manor of which the lands are parcel, or his steward, or the deputy of such steward, shall cause the memorandum with the statement therein, as to the consent, to be entered on the court rolls of the manor; and such memorandum shall be good evidence of the consent and of the surrender stated therein to be made; and the entry of the memorandum on the court rolls, or a copy of such entry, shall be as available for the purposes of evidence as any other entry on the court rolls or a copy thereof; but if the surrender shall be made in court, the lord of the manor or his steward, or the deputy of such steward, shall cause an entry of such surrender, containing a statement that such consent had been given, to be made on the court rolls; and the entry of such surrender on the court rolls, or a copy of such entry, shall be as available for the purposes of evidence as any other entry on the court rolls or a copy thereof.

Power of
equitable
tenants in
tail of copy-
holds to
dispose of
their lands
by deed.

LIII. Provided (a) always, and be it further enacted, That a tenant in tail of lands held by copy of court roll, whose estate shall be merely an estate in equity, shall have full power by deed to dispose of such lands under this Act, in the same manner in every respect as he could have done if they had been of freehold tenure; and all the previous clauses in this Act shall, so far as the circumstances will admit, apply to the lands in respect of which any such equitable tenant in tail shall avail himself of this clause, and the deed by which the disposition shall be effected shall be entered on the court rolls of the manor of which the lands thereby disposed may be a parcel; and if there be a protector to consent to such disposition, and such protector shall give his consent by a distinct deed, the consent shall be void, unless the deed of consent be executed by the protector, either on or at any time before the day on which the deed of disposition shall be executed by the equitable tenant in tail; and such deed of consent shall be entered on the court rolls; and it shall be imperative on the lord of the manor, or

(a) See *Fines and Recoveries*, Pref. § 2, and *Precedent*, vol. ii. p. 108.

his steward, or the deputy of such steward, when required so to do, to enter such deed or deeds on the court-rolls, and he shall indorse (a) on each deed so entered a memorandum signed by him testifying the entry of the same on the court rolls: Provided always, that every deed by which lands held by copy of court roll shall be disposed of under this clause by an equitable tenant in tail thereof, shall be void against any person claiming such lands or any of them, for valuable consideration under any subsequent assurance duly entered on the court rolls of the minor [manor] of which the lands may be parcel, unless the deed of disposition by such tenant in tail be entered on the court rolls of such manor before the subsequent assurance shall have been entered.

*Bank-
rupt's
Estates
Tail.*

LIV. Provided always, and be it further enacted, That in no case where any disposition under this Act of lands held by copy of court roll by a tenant in tail thereof shall be effected by surrender or by deed, shall the surrender or the memorandum, or a copy thereof, or the deed of disposition, or the deed, if any, by which the protector shall consent to the disposition, require enrolment otherwise than by entry on the court rolls.

Inrolment
not neces-
sary as to
copyholds.

LV. And (a) be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, so much of an Act passed in the sixth year of his late Majesty King George the Fourth, intituled "An Act to amend the Laws relating to Bankrupts," as empowers the commissioners named in any commission of bankrupt issued against a tenant in tail to make sale of any lands, tenements and hereditaments, situate either in England or Ireland, whereof such bankrupt shall be seised, of any estate tail in possession, reversion, or remainder, and whereof no reversion or remainder is in the Crown, the gift or provision of the Crown, shall be and the same is hereby repealed: Provided always, that such repeal shall not extend to the lands, whatever the tenure may be, of any person judged a bankrupt under any commission of bankrupt, or under any fiat which in pursuance of the said Act of the sixth year of the reign of King George the Fourth, or of any former Act concerning bankrupts, or of an Act passed in the first and second years of the reign of his Majesty King William the Fourth, intituled 'An Act to establish a Court of Bankruptcy,' hath been or shall be issued on or before the thirty-first day of December, one thousand

Repeal of
the Bank-
rupt Act
6 G. IV.
c. 16, s. 65,
so far as
relates to
estates tail,
but not to
extend to
lands of a
bankrupt
under a
commission
or fiat
issued on
or before
the 31st of
Dec. 1833,
nor to re-
vive former
Acts.

(a) See *Form*, vol. ii. p. 109.

*Bank-
rupt's
Estates
Tail.*

The com-
missioner
in the case
of an actual
tenant in
tail be-
coming
bankrupt
after the
31st of
Dec. 1833,
by deed to
dispose of
the lands of
the bank-
rupt to a
purchaser.

Commis-
sioner in
case of a
tenant in
tail entitled
to a base fee
becoming
bankrupt,
and of there
being no
protector
by deed to
dispose of
the lands of
the bank-
rupt to a
purchaser.

eight hundred and thirty-three: Provided also that such repeal shall not have the effect of reviving, in any respect, the Acts repealed by the said Act of the sixth year of the reign of King George the Fourth, or any of them.

LVI. And (a) be it further enacted, That any commissioner acting in the execution of any fiat which after the thirty-first day of December, one thousand eight hundred and thirty-three, shall be issued in pursuance of the said Act passed in the first and second years of the reign of King William the Fourth, under which any person shall be adjudged a bankrupt, who at the time of issuing such fiat, or at any time afterwards before he shall have obtained his certificate, shall be an actual tenant in tail of lands of any tenure, shall by deed dispose of such lands to a purchaser for valuable consideration, for the benefit of the creditors of such actual tenant in tail, and shall create by any such disposition as large an estate in the lands disposed of as the actual tenant in tail, if he had not become bankrupt, could have done under this Act at the time of such disposition: Provided always, that if at the time of the disposition of such lands, or any of them, by such commissioner as aforesaid, there shall be a protector by which the estate of such actual tenant in tail in the lands disposed of by such commissioner was created, and the consent of such protector would have been requisite to have enabled the actual tenant in tail, if he had not become bankrupt, to have disposed of such lands to the full extent to which, if there had been no such protector, he could under this Act have disposed of the same, and such protector shall not consent to the disposition, then and in such case the estate created in such lands or any of them by the disposition of such commissioner, shall be as large an estate as an actual tenant in tail, if he had not become a bankrupt, could at the time of such disposition have created under this Act in such lands without the consent of the protector.

LVII. And be it further enacted, That any commissioner acting in the execution of any such fiat as aforesaid, under which any person shall be adjudged a bankrupt, who at the time of issuing such fiat or at any time afterwards, before he shall have obtained his certificate, shall be a tenant in tail entitled to a base fee in lands of any tenure, shall by deed dispose of such lands to a purchaser for valuable consideration, for the benefit of the creditors of the person so entitled as aforesaid, provided at the time of the disposition there be no protector of the settlement by which the estate tail con-

(a) See *Bankruptcy*, Pref. § 3, and *Precedent*, vol. i. p. 216.

verted into the base fee was created ; and by such disposition the base fee shall be enlarged into as large an estate as the same could, at the time of such disposition, have been enlarged into under this Act by the person so entitled, if he had not become bankrupt.

*Bank-
rupt's
Estates
Tail.*

LVIII. And be it further enacted, That the commissioner acting in the execution of any such fiat as aforesaid under which a person being, or before his obtaining his certificate becoming, an actual tenant in tail of lands of any tenure, or a tenant in tail entitled to a base fee in lands of any tenure, shall be adjudged a bankrupt, shall, if there shall be a protector of the settlement by which the estate tail of such actual tenant in tail, or the estate tail converted into a base fee (as the case may be) was created, stand in the place of such actual tenant in tail, or tenant in tail so entitled as aforesaid, so far as regards the consent of such protector ; and the disposition of such lands or any of them by such commissioner as aforesaid, if made with the consent of such protector shall, whether such commissioner may have made under this Act a prior disposition of such lands, without the consent of such protector or not, or whether a prior sale or conveyance of the lands shall have been made or not under the said Acts of the sixth year of King George the Fourth, and the first and second years of King William the Fourth, or either of them, or any acts hereafter to be passed concerning bankrupts, have the same effect as such disposition would have had if such actual tenant in tail or tenant in tail, so entitled as aforesaid, had not become bankrupt, and such disposition had been made by him under this Act with the consent of such protector ; and all the previous clauses in this Act, with regard to the consent of the protector to the disposition of a tenant in tail of the lands not held by copy of court roll, and in regard to the time and manner of giving such consent, and in regard to the inrolment of the deed of consent, where such deed shall be distinct from the assurance by which the disposition of the commissioner shall be effected, except so far as the same may be varied by the clause next hereinafter contained, apply to every consent that may be given by virtue of this present clause.

*As to the
consent of
the protec-
tor in case
of bank-
ruptcy.*

LIX. And (a) be it further enacted, That every deed by which any commissioner acting in the execution of any such fiat as aforesaid shall, under this Act, dispose of lands not held by copy of court roll, shall be void, unless inrolled in his Majesty's High Court of Chancery within six calendar months after the execution thereof ; and

*As to the
inrolment
in Chan-
cery of the
deed of dis-
position of
freehold
lands, and*

(a) See *Bankruptcy*, Pref. § 5 ; *Fines and Recoveries*, Pref. § 8.

*Bank-
rupt's
Estates
Tail.*

the entry
on the
court rolls
of the deed
of disposi-
tion of
copyhold
lands, and
of the deed
of consent.

every deed by which any commissioner acting in the execution of any such fiat as aforesaid shall, under this Act, dispose of lands held by copy of court roll, shall be entered on the court rolls of the manor of which the lands may be parcel; and if there shall be a protector who shall consent to the disposition of such lands held by copy of court roll, and he shall give his consent by a distinct deed, the consent shall be void, unless the deed of consent be executed by the protector, either on or at any time before the day on which the deed of disposition shall be executed by the commissioner, and such deed of consent shall be entered on the court rolls and it shall be imperative on the lord of every manor of which any lands disposed of under this Act, by any commissioner as aforesaid, may be parcel, or the steward of such lord, or the deputy of such steward, to enter on the court rolls of the manor every deed required by this present clause to be entered on the court rolls, and he shall indorse on every deed so entered a memorandum signed by him testifying the entry of the same on the court rolls.

Subsequent
enlarge-
ment of
base fees
created by
the disposi-
tion of the
commis-
sioner.

LX. And be it further enacted, That if any commissioner acting in the execution of any such fiat as aforesaid shall, under this Act, dispose of any lands of any tenure of which the bankrupt shall be actual tenant in tail, and in consequence of there being a protector of the settlement by which the estate of such actual tenant in tail was created, and of his not giving his consent, only a base fee shall by such disposition be created in such lands; and if at any time afterwards during the continuance of the base fee there shall cease to be a protector of such settlement, then and in such case and immediately thereupon, such base fee shall be enlarged into the same estate into which the same could have been enlarged under this Act if, at the time of the disposition by such commissioner as aforesaid, there had been no such protector.

Enlarge-
ment of
base fees
subsequent
to the sale
or convey-
ance of the
same under
the Bank-
rupt Acts.

LXI. And be it further enacted, That if a tenant in tail entitled to a base fee in lands of any tenure shall be adjudged a bankrupt at the time when there shall be a protector of the settlement by which the estate tail converted into the base fee was created, and if such lands shall be sold or conveyed under the said Acts of the sixth year of King George the Fourth, and the first and second years of King William the Fourth, or either of them, or any other Acts hereafter to be passed concerning bankrupts, and if at any time afterwards, during the continuance of the base fee in such lands, there shall cease to be a protector of such settlement, then and in

such case and immediately thereupon, the fee in such lands shall be enlarged into the same estate into which the same could have been enlarged under this Act if at the time of the adjudication of such bankruptcy there had been no such protector, and the commissioner acting in the execution of the fiat under which the tenant in tail so entitled shall have been adjudged a bankrupt had disposed of such lands under this Act.

Bankrupt's Estates Tail.

LXII. Provided always and be it further enacted, That where an actual tenant in tail of lands of any tenure, or a tenant in tail entitled to a base fee in lands of any tenure, shall have already created or shall hereafter create in such lands or any of them a voidable estate in favour of a purchaser for valuable consideration, and such actual tenant in tail or tenant in tail so entitled as aforesaid shall be adjudged a bankrupt under any such fiat as aforesaid, and the commissioner acting in the execution of such fiat shall make any disposition under this Act of the lands in which such voidable estate shall be created or any of them, then and in such case, if there shall be no protector of the settlement by which the estate tail of the actual tenant in tail or the estate tail converted into a base fee, as the case may be, was created, or being such protector he shall consent to the disposition by such commissioner as aforesaid, whether such commissioner may have made under this Act a previous disposition of such lands or not, or whether a prior sale or conveyance of the same lands shall have been made or not under the said Acts of the sixth year of King George the Fourth, and the first and second years of King William the Fourth, or either of them, or any other Acts hereafter to be passed concerning bankrupts, the disposition by such commissioner shall have the effect of confirming such voidable estate in the lands thereby disposed of to its full extent as against all persons except those whose rights are saved by this Act; and if at the time of the disposition by such commissioner in the case of an actual tenant in tail there shall be a protector, and such protector shall not consent to the disposition by such commissioner, and such actual tenant in tail, if he had not been adjudged a bankrupt, would not without such consent have been capable under this Act of confirming the voidable estate to its full extent, then and in such case such disposition shall have the effect of confirming such voidable estate, so far as such actual tenant in tail, if he had not been adjudged a bankrupt, could at the time of such disposition have been capable under this Act of confirming the same without such consent; and if at any time after the disposition

A voidable estate created in favour of a purchaser by an actual tenant in tail becoming bankrupt, or by a tenant in tail entitled to a base fee becoming bankrupt confirmed by the disposition of the commissioner if no protector, or being such with his consent, or on there ceasing to be a protector; but not against a purchaser without notice.

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Tail.*

Acts of a
bankrupt
tenant in
tail void
against any
disposition
under this
Act by the
commis-
sioner.

Subject to
the powers
given to
the com-
missioner
and to the
estate in
the as-
signees a
bankrupt
tenant in
tail shall
retain his
powers of
disposition.

The dis-
position by
the com-
missioner
of the lands
of a bank-
rupt tenant
in tail shall,
if the bank-
rupt be

of such lands by such commissioner, and while only a base fee shall be subsisting in such lands, there shall cease to be a protector of such settlement, and such protector shall not have consented to the disposition by such commissioner, then and in such case such voidable estate, so far as the same may not have been previously confirmed, shall be confirmed to its full extent as against all persons except those whose rights are saved by this Act: Provided always that if the disposition by any such commissioner as aforesaid shall be made to a purchaser for a valuable consideration, who shall not have express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed against such purchaser and the persons claiming under him.

LXIII. And be it further enacted, That all acts and deeds done and executed by a tenant in tail of lands of any tenure who shall be adjudged a bankrupt under any such fiat as aforesaid, and which shall affect such lands or any of them, and which if he had been seised of or entitled to such lands in fee simple absolute would have been void against the assignees of the bankrupt's estate, and all persons claiming under them, shall be void against any disposition which may be made of such lands under this Act by such commissioner as aforesaid.

LXIV. Provided always and be it further enacted, That subject and without prejudice to the power of disposition given by this Act to the commissioner acting in the execution of any such fiat as aforesaid, under which a person being, or before obtaining his certificate becoming, an actual tenant in tail of lands of any tenure, or a tenant in tail entitled to a base fee in lands of any tenure, shall be adjudged a bankrupt, and also subject and without prejudice to the estate in such lands which may be vested in the assignees of the bankrupt's estate, and also subject and without prejudice to the rights of all persons claiming under the said assignees in respect of such lands or any of them, such actual tenant in tail or tenant in tail so entitled as aforesaid, shall have the same powers of disposition under this Act in regard to such lands as he would have had if he had not become bankrupt.

LXV. And be it further enacted, That any disposition under this Act of lands of any tenure, by a commissioner acting in the execution of any such fiat as aforesaid, under which a person being or before his obtaining his certificate becoming an actual tenant in tail or a tenant in tail entitled to a base fee in such lands shall be adjudged a bankrupt, shall, although the bankrupt be dead at the time of the disposition, be in the

following cases as valid and effectual as the same would have been, and have the same operation under this Act as the same would have had, if the bankrupt were alive, (that is to say) in case at the time of the bankrupt's decease there shall be no protector of the settlement by which the estate tail of the actual tenant in tail or the estate tail converted into a base fee, as the case may be, was created; or in case the bankrupt had been an actual tenant in tail of such lands, and there shall at the time of the disposition be any issue inheritable to the estate tail of the bankrupt in such lands, and either no protector of the settlement by which the estate tail was created or a protector of such settlement who, in the manner required by this Act, shall consent to the disposition, or a protector of such settlement who shall not consent to the disposition; or, in case the bankrupt had been a tenant in tail entitled to a base fee in such lands, and there shall at the time of the disposition be any issue, who if the base fee had not been created would have been actual tenant in tail of such lands, and either no protector of the settlement by which the estate tail converted into a base fee was created, or a protector of such settlement who, in the manner required by this Act, shall consent to the disposition.

LXVI. And (a) be it further enacted, That every disposition which under this Act may be made by any commissioner acting in the execution of any such fiat as aforesaid, of lands held by copy of court roll, shall, in every case in which the estate of the bankrupt in such lands shall not be merely an estate in equity, operate in the same manner as if such lands had, for the same estate which shall have been acquired by the disposition by such commissioner as aforesaid, been duly surrendered into the hands of the lord of the manor of which they may be parcel, to the use of the person to whom the same shall have been disposed of by such commissioner; and the person to whom the lands shall have been so disposed of by such commissioner, may claim to be admitted tenant of such lands, to hold the same by the ancient rents, customs and services, in the same manner as if such lands had been duly surrendered to his use into the hands of the lord of the manor of which such lands may be parcel, and shall, upon being admitted tenant of such lands to hold the same as aforesaid, pay the fines, fees and other dues which could have been lawfully demanded upon such admittance, if such lands had, for the same estate which shall have

Bankrupt's Estates Tail.

dead, have in the cases herein mentioned the same operation as if he were alive.

Every disposition by the commissioner of copyhold lands, where the estate shall not be equitable, to have the same operation as a surrender; and the person to whom such land shall have been disposed of may claim to be admitted on paying the fines, &c.

(a) See *Bankruptcy*, Pref. § 4, and Precedent, vol. i. 220.

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Tail.*

Assignees to recover rents of the lands of a bankrupt of which the commissioner has power to make disposition, and to enforce covenants as if entitled to the reversion. This clause to apply to all copyhold land; but as to other lands, only to such as the commissioner may dispose of after the bankrupt's death.

11 G. II. c. 19

been required by the disposition of such commissioner as aforesaid, passed by surrender into the hands of the lord, to the use of the person so admitted.

LXVII. And (a) be it further enacted, That the rents and profits of any lands of which any commissioner acting in the execution of any fiat hath power to make disposition under this Act shall, in the mean time and until such disposition shall be made, or until it shall be ascertained that such disposition shall not be required for the benefit of the creditors of the person adjudged a bankrupt under the fiat, be received by the assignees of the estate of the bankrupt for the benefit of the creditors; and the assignees may proceed by action of debt for the recovery of such rents and profits, or may distrain for the same upon the land subject to the payment thereof; and in case any action of trespass shall be brought for taking any such distress, may plead thereto the general issue, and give this Act or other special matter in evidence; and also, in case any such distress shall be replevied, shall have power to avow or make cognizance generally in such manner and form as any landlord may now do by virtue of the statute made in the eleventh year of the reign of his Majesty George the Second, intituled "An Act for the more effectual securing the Payment of Rents and preventing Frauds by Tenants;" or by any other law or statute now in force, or hereafter to be made, for the more effectually recovering of rent in arrear; and such assignees and their bailiffs, agents and servants, shall also have all such and the same remedies, powers, privileges and advantages of pleading, avowing, and making cognizance, and be entitled to the same costs and damages and the same remedies for the recovery thereof, as landlords, their bailiffs, agents and servants are now or hereafter may be by law entitled to have when rent is in arrear; and such assignees shall also have the same power and authority of enforcing the observance of all covenants, conditions and agreements in respect of the lands of which such commissioner as aforesaid hath the power of disposition under this Act, and in respect of the rents and profits thereof, and of entry into and upon the same lands for the non-observance of any such covenant, condition and agreement, and of expelling and removing therefrom the tenants and other occupiers thereof, and thereby determining and putting an end to the estate of the persons who shall not have observed such covenants, conditions and agreements as

(a) See *Bankruptcy*, Pref. § 4.

the bankrupt would have had in case he had not been adjudged a bankrupt: Provided always that this clause shall apply to all lands held by copy of court roll, but shall only apply to those lands of any other tenure which any commissioner acting in the execution of such fiat as aforesaid may have power to dispose of under this Act after the bankrupt's decease.

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LXVIII. And be it further enacted, That all the provisions in this Act contained for the benefit of the creditors of persons who, under such fiats as aforesaid, shall be adjudged bankrupts after the thirty-first day of December, one thousand eight hundred and thirty-three, and for the confirmation in consequence of bankruptcy of voidable estates created by them, shall extend and apply to the lands of any tenure in Ireland of such persons, as fully and effectually as if this Act had throughout extended to lands of any tenure in Ireland; saving always the rights of the King's Most Excellent Majesty, his heirs and successors, to any reversion or remainder in the Crown in lands in Ireland.

All the provisions of this Act in regard to bankrupts, shall apply to their lands in Ireland.

LXIX. Provided (a) always, and be it further enacted, That in all cases of bankruptcy every deed of disposition under this Act of lands in Ireland, by any commissioner acting in the execution of any such fiat as aforesaid, and also every deed by which the protector of a settlement of lands in Ireland shall consent, shall be inrolled in his Majesty's High Court of Chancery in Ireland, within six calendar months after the execution thereof, and not in his Majesty's High Court of Chancery in England.

Deeds relating to the lands of bankrupts in Ireland to be inrolled in the Court of Chancery there.

LXX. And be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, an Act passed in the seventh year of the reign of his late Majesty King George the Fourth, intituled, "An Act for repealing an Act passed in the 39th and 40th years of the reign of his late Majesty King George the Third, intituled "An Act for the Relief of Persons entitled to Entailed Estates to be purchased with Trust Monies, and for making further provisions in lieu thereof," shall be and the same is hereby repealed; except as to such proceedings under the Act hereby repealed, as shall have been commenced before the first day of January, one thousand eight hundred and thirty-four, and which may be continued under the authority and according to the provisions of the Act hereby repealed: Provided always that the Act repealed by the said Act in the eleventh year of the reign of his late Majesty King George the Fourth shall not be revived.

Repeal of the Statute 7 G. IV. c. 45, except as to proceedings commenced before 1st Jan. 1834.

(a) See *Fines and Recoveries*, Pref. § 8.

Entailed Money.

The previous clauses with some variations to apply to lands of any tenure to be sold, where the purchase money is subject to be invested in the purchase of lands to be entailed and where money is subject to be invested in like manner.

LXXI. And (a) be it further enacted, That lands to be sold, whether freehold or leasehold, or of any other tenure where the money arising from the sale thereof shall be subject to be invested in the purchase of lands to be settled so that any person, if the lands were purchased, would have an estate tail therein, and also money subject to be invested in the purchase of lands to be settled, so that any person, if the lands were purchased, would have an estate therein, shall for all the purposes of this Act, be treated as the lands to be purchased, and be considered subject to the same estates, as the lands to be purchased would, if purchased, have been actually subject to ; and all the previous clauses in this Act, so far as circumstances will admit, shall in the case of lands to be sold as aforesaid, being either freehold or leasehold, or of any other tenure, except copy of court roll, apply to such lands in the same manner as if the lands to be purchased with the money to arise from the sale thereof were directed to be freehold, and were actually purchased and settled ; and shall, in the case of the lands to be sold as aforesaid, being held by copy of court roll, apply to such lands in the same manner as if the lands to be purchased with the money to arise from the sale thereof were directed to be copyhold, and were actually purchased and settled ; and shall in the case of money, to be subject to be invested in the purchase of lands to be so settled as aforesaid, apply to such money, in the same manner as if such money were directed to be laid out in the purchase of freehold lands, and such lands were actually purchased and settled ; save and except that in every case where under this clause a disposition shall be to be made of leasehold lands for years absolute or determinable, so circumstanced as aforesaid, or of money so circumstanced as aforesaid, such leasehold lands or money shall, as to the person in whose favour or for whose benefit the disposition is to be made, be treated as personal estate ; and, except in case of bankruptcy, the assurance by which the disposition of such leasehold lands or money shall be effected, shall be an assignment by deed, which shall have no operation under this Act, unless inrolled in his Majesty's High Court of Chancery within six calendar months after the execution thereof ; and in every case of bankruptcy the disposition of such leasehold lands or money shall be made by the commissioner, and completed by inrolment, in the same manner as hereinbefore required in regard to lands not held by copy of court roll.

(b) See *Fines and Recoveries*, Pref. § 6, and Precedent, vol. ii. p. 112.

LXXII. And be it further enacted, That so far as regards any person adjudged a bankrupt under such fiat as aforesaid, the provisions of the clause lastly hereinbefore contained shall, for the benefit of the creditors of the bankrupt, apply to lands in Ireland to be sold, whether freehold, leasehold, or of any other tenure, where the money arising from the sale thereof shall be subject to be invested in the purchase of lands to be settled so that the bankrupt would have an estate tail therein, and also to money under the controul of any court of equity in Ireland, or of or to which any individuals as trustees may be possessed or entitled in Ireland, and which shall be subject to be invested in the purchase of lands to be settled so that the bankrupt, if the lands were purchased, would have an estate therein as fully and effectually as if this Act had throughout extended to Ireland: Provided always, that every deed to be executed by any commissioner or protector in pursuance of this clause in regard to lands in Ireland to be sold as aforesaid, shall be inrolled in his Majesty's High Court of Chancery in Ireland within six calendar months after the execution thereof; but every deed to be executed by any commissioner or protector in pursuance of this clause, in regard to money subject to be invested in the purchase of lands to be so settled as aforesaid, shall be inrolled in his Majesty's High Court of Chancery in England, within six calendar months after the execution thereof, and not in his Majesty's High Court of Chancery in Ireland, saving always the rights of the King's Most Excellent Majesty, his heirs and successors, to any reversion or remainder in the Crown in lands to be sold.

LXXIII. And be it further enacted, That any rule or practice requiring deeds to be acknowledged before inrolment, shall not apply to any deed by this Act required to be inrolled in his Majesty's High Court of Chancery in England or Ireland.

LXXIV. And (a) be it further enacted, That every deed required to be inrolled in his Majesty's High Court of Chancery in England or Ireland, by which lands or money subject to be invested in the purchase of lands, shall be disposed of under this Act shall, when inrolled as required by this Act, operate and take effect in the same manner as it would have done if the inrolment thereof had not been required, except that every such deed shall be void against any person claiming the lands or money thereby disposed of, or any part thereof, for valuable consideration, under any subse-

Entailed Money.

Lands of any tenure in Ireland to be sold, where the purchase money is subject to be invested in the purchase of lands to be entailed, and money under the controul of a court of equity in Ireland, subject to be invested in like manner, to be subject to this Act, in cases of bankruptcy.

As to deeds being acknowledged before inrolment.

Every deed to be inrolled, by which lands or money shall be disposed under this Act, to take effect as if inrolment not required.

(a) See *Fines and Recoveries*, § 8.

Alienation by Married Women.

The Court of Chancery to regulate the fees to be paid for the enrolment of deeds, &c.

The Court of Common Pleas to regulate the fees for entries on court rolls, and indorsements on deeds, and for taking consents.

A married woman, with her husband's concurrence, to dispose of lands and money subject to be vested in the purchase of lands, and of any estate therein, and to release and extinguish powers as a *feme sole*.

quent deed enrolled under this Act, if such subsequent deed shall be first enrolled.

LXXV. And be it further enacted, That it shall be lawful for his Majesty's High Court of Chancery in England, as to deeds to be enrolled in England under this Act, and for his Majesty's High Court of Chancery in Ireland, as to deeds to be enrolled in Ireland under this Act, from time to time to make such order as the court shall think fit, touching the amount of fees and charges to be paid for the enrolment of such deeds, and to be paid for searches for such deeds in the office of enrolment, and to be paid for copies of the enrolments of deeds under this Act, where such copies are examined with the enrolments, and signed by the proper officer having the custody of such enrolments.

LXXVI. And be it further enacted, That it shall be lawful for his Majesty's Court of Common Pleas at Westminster, from time to time, to make such order as the court shall think fit, touching the amount of fees and charges to be paid for the entries of deeds by this Act required to be entered on the court rolls of manors, and for the indorsements thereon, and for taking the consents of the protectors of settlements of lands held by copy of court roll where such consents shall not be given by deed, and for taking surrenders by which dispositions shall be made under this Act by tenants in tail of lands held by copy of court roll, and for entries of such surrenders, or the memorandums thereof, on the court rolls.

LXXVII. And (a) be it further enacted, That after the thirty-first day of December, one thousand eight hundred and thirty-three, it shall be lawful for every married woman, in every case except that of being tenant in tail, for which provision is already made by this Act, by deed, to dispose of lands of any tenure, or of money subject to be invested in the purchase of lands; and also to dispose of, release, surrender, or extinguish any estate which she alone, or she and her husband, in her right, may have in any lands of any tenure, or in any such money as aforesaid; and also to release and extinguish any power which may be vested in or limited or reserved to her in regard to any lands of any tenure, or any such money as aforesaid; or in regard to any estate in any lands of any tenure, or in any such money as aforesaid, as fully and effectually as she could do if she were a *feme sole*, save and except that no such disposition,

(a) See *Fines and Recoveries*, Pref. § 7; and *Forms*, vol. ii. p. 106, 116, 119.

release, surrender, or extinguishment shall be valid and effectual, unless the husband concur in the deed by which the same shall be effected, nor, unless the deed be acknowledged by her as hereinafter directed : Provided always that this Act shall not extend to lands held by copy of court roll, of or to which a married woman, or she or her husband in her right, may be seised or entitled for an estate at law in any case in which any of the objects to be effected by this clause could, before the passing of this Act, have been effected by her, in concurrence with her husband, by surrender into the hands of the lord of the manor of which the lands may be parcel.

LXXXVIII. Provided always and be it further enacted, That the powers of disposition given to a married woman by this Act shall not interfere with any power which, independently of this Act, may be vested in or limited or reserved to her so as to prevent her from exercising such power in any case, except so far as, by any disposition made by her under this Act, she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition.

LXXXIX. And be it further enacted, That every deed to be executed by a married woman for any of the purposes of this Act, except such as may be executed by her in the character of protector, for the sole purpose of giving her consent to the disposition of a tenant in tail, shall, upon her executing the same, or afterwards, be acknowledged by her as her act and deed before a judge of one of the superior Courts at Westminster, or a master in Chancery, or two special commissioners to be respectively appointed as hereinafter provided.

LXXX. And be it further enacted, That such judge, master in chancery, or commissioners as aforesaid, before he or they shall receive the acknowledgment by any married woman of any deed by which any disposition, release, surrender, or extinguishment shall be made by her under this Act, shall examine her, apart from her husband, touching her knowledge of such deed, and shall ascertain whether she freely and voluntarily consents to such deed, and unless she freely and voluntarily consent to such deed, shall not permit her to acknowledge the same; and in such case such deed shall, so far as relates to the execution thereof by such married woman, be void.

LXXXI. And be it further enacted, That for the purpose of providing convenient means of taking acknowledgments by married women of the deeds to be executed by them as aforesaid, the Lord Chief Justice

Alienation by Married Women.

Not to extend to copyholds in certain cases.

The powers of disposition given to a married woman by this Act not to interfere with any other powers.

Every deed by a married woman, not executed by her as protector, to be acknowledged by her before a judge, &c.

The judge, &c., before receiving such acknowledgment, to examine her apart from her husband.

As to the appointment of perpetual commis-

Alienation by Married Women.

signers for each county or place, and the making out and keeping of the lists of commissioners and the delivery of copies.

of the Court of Common Pleas at Westminster shall from time to time appoint such proper persons as he shall think fit, for every county, riding, division, soke, or place for which there may be a clerk of the peace, to be perpetual commissioner for taking such acknowledgments, and such commissioners shall be removable by and at the pleasure of the said Lord Chief Justice, and lists of the names of such commissioners for the time being, with the names of their places of residence, and the counties, ridings, divisions, sokes, or places for which they shall be respectively appointed to act, shall from time to time be made out, and be kept by the officer of the Court of Common Pleas at Westminster, with whom the certificates of the acknowledgments by married women are to be lodged as hereinafter mentioned; and such officer shall from time to time transmit, without fee or reward, to the clerk of the peace for each county, riding, division, soke, or place, or his deputy, a copy of the list to be so from time to time made out for that county, riding, division, soke, or place; and such officer shall deliver a copy, signed by him, of the list for the time being for any county, riding, division, soke, or place, to any person applying for the same; and the clerk of the peace for each county, riding, division, soke, or place, or his deputy, shall deliver a copy, signed by him, of the list last transmitted to him as aforesaid, to any person applying for the same.

Power of perpetual commissioners not confined to any particular place.

LXXXII. Provided always and be it further enacted, That any person appointed commissioner for any particular county, riding, division, soke, or place, shall be competent to take the acknowledgment of any married woman, wheresoever she may reside, and wheresoever the lands or money in respect of which the acknowledgment is to be taken may be.

If, from being beyond seas, &c. a married woman be prevented from making the acknowledgment, special commissioners to be appointed.

LXXXIII. And be it further enacted, That in those cases where, by reason of residence beyond seas or ill-health, or any other sufficient cause, any married woman shall be prevented from making the acknowledgment required by this Act before a judge or a master in Chancery, or any of the perpetual commissioners to be appointed as aforesaid, it shall be lawful for the Court of Common Pleas at Westminster, or any judge of that court, to issue a commission specially appointing any person therein named to be commissioners to take the acknowledgment by any married woman to be therein named of any such deed as aforesaid: Provided always that every such commission shall be made returnable within such time to be therein expressed as the said court or judge shall think fit.

LXXXIV. And be it further enacted, That when a married woman shall acknowledge any such deed as aforesaid, the judge, master in Chancery, or commissioners taking such acknowledgment, shall sign a memorandum to be indorsed on or written at the foot or in the margin of such deed, which memorandum, subject to any alteration which may from time to time be directed by the Court of Common Pleas, shall be to the following effect, videlicet :—

'This deed marked [*here add some letter or other mark for the purpose of identification*] was this day produced before me [*or us*] and acknowledged by therein-named to be her act and deed; previous to which acknowledgment the said was examined by me [*or us*] separately and apart from her husband, touching her knowledge of the contents of the said deed and her consent thereto, and declared the same to be freely and voluntarily executed by her.'

And the same judge, master in Chancery, or commissioners, shall also sign a certificate of the taking such acknowledgment, to be written or engrossed on a separate piece of parchment; which certificate, subject to any alteration which may from time to time be directed by the Court of Common Pleas, shall be to the following effect, videlicet :—

'These are to certify, that on day of in the year one thousand eight hundred and before me the undersigned Sir Nicholas Conyngham Tindal, Lord Chief Justice of the Court of Common Pleas at Westminster [*or before me, Sir James Parke, Knt., one of the justices of the Court of King's Bench at Westminster; or before me the undersigned James William Farrer, one of the masters in ordinary of the Court of Chancery; or before us, A B and C D two of the perpetual commissioners appointed for the taking the acknowledgments of deeds by married women, pursuant to an Act passed in the year of the reign of his Majesty King William the Fourth, intituled "An Act [*insert the title of this Act*]" or before us the undersigned A B and C D two of the commissioners specially appointed, pursuant to an Act passed in the year of the reign of his Majesty King William the Fourth, intituled, "An Act [*insert the title of this Act*]" for taking the acknowledgment of any deed by the wife of appeared personally the wife of and produced a certain indenture, marked [*here add the mark*] bearing date the day of and made between [*insert the names of parties*] and acknowledged the same to be*

Alienation by Married Women.

When a married woman shall acknowledge a deed, the person taking the same to sign a memorandum to the effect here mentioned.

And also sign a certificate of the taking such acknowledgment to the effect here mentioned.

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Married
Women.*

' her act and deed, and I [or we] do hereby certify,
' that the said was, at the time of her acknowledg-
' ing the said deed, of full age and competent under-
' standing, and that she was examined by me [or us]
' apart from her husband, touching her knowledge of
' the contents of the said deed, and that she freely and
' voluntarily consented to the same.'

Certificate,
with affida-
vit, verify-
ing the
same, to be
lodged with
some offi-
cer of the
Court of
Common
Pleas, who
shall cause
the same to
be filed of
record in
the court.

LXXXV. And be it further enacted, That every
such certificate as aforesaid of the taking of an acknow-
ledgment by a married woman of any such deed as
aforesaid, together with an affidavit by some person
verifying the same, and the signature thereof by the
party by whom the same shall purport to be signed,
shall be lodged with some officer of the Court of Com-
mon Pleas at Westminster, to be appointed as herein-
after mentioned; and such officer shall examine the
certificate and see that it is duly signed, either by some
judge or master in Chancery, or by two commissioners
appointed pursuant to this Act, and duly verified by
affidavit as aforesaid, and shall also see that it contains
such statement of particulars as to the consent of the
married woman as shall from time to time be required in
that behalf; and if all the requisites in this Act in regard
to the certificate shall have been complied with, then such
officer shall cause the said certificate and the affidavit to
be filed of record in the said Court of Common Pleas.

On filing
certificate,
the deed,
by relation,
to take
effect from
time of ac-
knowledg-
ment.

LXXXVI. And be it further enacted, That when
the certificate of the acknowledgment of a deed by a
married woman shall be so filed of record as aforesaid,
the deed so acknowledged shall, so far as regards the
disposition, release, surrender, or extinguishment there-
by made by any married woman whose acknowledg-
ment shall be so certified, concerning any lands or
money comprised in such deed, take effect from the
time of its being acknowledged, and the subsequent
filing of such certificate as aforesaid, shall have relation
to such acknowledgment.

The officer
with whom
the certifi-
cates are
lodged to
make an
index of
the same.

LXXXVII. And be it further enacted, That the
officer of the Court of Common Pleas with whom such
certificates as aforesaid shall be lodged, shall make and
keep an index of the same; and such index shall contain
the names of the married women and their husbands,
alphabetically arranged, and the dates of such certifi-
cates, had of the deeds to which the same shall respec-
tively relate, and such other particulars as shall be found
convenient, and every such certificate shall be entered in
the index as soon as may be after such certificate shall
have been filed.

LXXXVIII. And be it further enacted, That after

the filing of any such certificate as aforesaid, the officer with whom the certificate shall be lodged shall at any time deliver a copy, signed by him, of any such certificate to any person applying for such copy; and every such copy shall be received as evidence of the acknowledgment of the deed to which such certificate shall refer.

LXXXIX. And be it further enacted, That the Lord Chief Justice of the Court of Common Pleas at Westminster shall from time to time appoint the person who shall be the officer with whom such certificates as aforesaid shall for the time being be lodged, and may remove him at pleasure; and the Court of Common Pleas at Westminster shall also from time to time make such order and regulations as the Court shall think fit touching the mode of examination to be pursued by the commissioners to be appointed under this Act, and touching the particular matters to be mentioned in such memorandums and certificates as aforesaid; and the affidavits verifying the certificates, and the time within which any of the aforesaid proceedings shall take place, and touching the amount of the fees or charges to be paid for the copies to be delivered by the clerks of the peace or their deputies, or by the officer of the said Court, as hereinbefore directed, and also of the fees to be paid for taking acknowledgments of deeds, and for examining married women, and for the proceedings, matters and things required by this Act, to be had, done and executed, for completing or giving effect to such acknowledgments and examinations.

XC. And be it further enacted, That in every case in which a husband and wife shall, either in or out of Court, surrender into the hands of the lord of the manor, and in which she alone, or she and her husband, in her right, may have an equitable estate, the wife shall, upon such surrender being made, be separately examined by the person taking the surrender, in the same manner as she would have been if the estate to which she alone, or she and her husband, in her right, may be entitled in such lands were an estate at law, instead of a mere estate in equity; and every such surrender, when such examination shall be taken, shall be binding on the married woman, and all persons claiming under her; and all surrenders heretofore made of lands similarly circumstanced, where the wife shall have been separately examined by the person taking the surrender, are hereby declared to be good and valid.

XCI. Provided always and be it further enacted, That if a husband shall, in consequence of being a luna-

Alienation by Married Women.

Officer to deliver a copy of certificate filed, which shall be evidence.

Chief Justice of Common Pleas to appoint the officer with whom the certificates shall be lodged; and the Court to make orders touching the examination; certificates, affidavits, &c.

A married woman to be separately examined on the surrender of an equitable estate in copyholds, as if such estate were legal.

Court of Common

*Aliena-
tion by
Married
Women.*

Pleas in the case of a husband being lunatic, &c. may dispense with his concurrence, except where the Lord Chancellor or other persons entrusted with lunatics, or the Court of Chancery, shall be the protector of the settlement in lieu of the husband.

tic, idiot, or of unsound mind, and whether he shall have been found such by inquisition or not, or shall from any other cause be incapable of executing a deed, or of making a surrender of lands held by copy of court roll, or if his residence shall not be known, or he shall be in prison, or shall be living apart from his wife, either by mutual consent or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any cause whatsoever, it shall be lawful for the Court of Common Pleas at Westminster, by an order to be made in a summary way, upon the application of the wife, and upon such evidence as to the said court shall seem meet, to dispense with the concurrence of the husband in any case in which his concurrence is required by this Act or otherwise; and all acts, deeds or surrenders to be done, executed or made by the wife in pursuance of such order, in regard to lands of any tenure, or in regard to money subject to be invested in the purchase of lands, shall be done, executed or made by her in the same manner as if she were a *feme sole*, and when done, executed or made by her, shall (but without prejudice to the rights of the husband as then existing independently of this Act) be as good and valid as they would have been if the husband had concurred: Provided always that this clause shall not extend to the case of a married woman where, under this Act, the Lord High Chancellor, Lord Keeper, or Lords Commissioners for the custody of the great seal, or other the person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or his Majesty's High Court of Chancery shall be the protector of a settlement in lieu of her husband.

Ireland.

XCII. And be it further enacted, That this Act shall not extend to Ireland, except where the same is expressly mentioned.

Act may be altered this session.

XCIII. And be it further enacted, That this Act, or any part thereof, may be altered, varied or repealed by any Act or Acts to be passed in the present session of Parliament.

3 and 4 William IV. c. 105.

*An Act for the Amendment of the Law relating to
Dower.*

Meaning of the words in the Act.

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, that the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a

different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows, that is to say, the word "land" shall extend to manors, advowsons, messuages and all other hereditaments, whether corporeal or incorporeal (except such as are not liable to dower) and to any share thereof; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing.

"Land."

Number.

II. And (a) be it further enacted, That when a husband shall die beneficially entitled to any land for an interest which shall not entitle his widow to dower out of the same at law, and such interests, whether wholly equitable or partly legal and partly equitable, shall be an estate of inheritance in possession, or equal to an estate of inheritance in possession (other than an estate in joint-tenancy), then his widow shall be entitled in equity to dower out of the same land.

Widows to be entitled to dower out of equitable estates.

III. And (a) be it further enacted, That when a husband shall have been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same, if he had recovered possession thereof, she shall be entitled to dower out of the same, although her husband shall not have recovered possession thereof; provided that such dower be sued for or obtained within the period during which such right of entry or action might be enforced.

Seisin shall not be necessary to give title to dower.

IV. And (c) be it further enacted, That no widow shall be entitled to dower out of any land which shall have been absolutely disposed of by her husband in his lifetime or by his will.

No dower out of estates disposed of.

V. And be it further enacted, That all partial estates and interests, and all charges created by any disposition or will of a husband, and all debts, incumbrances, contracts, and engagements, which his land shall be subject or liable to, shall be valid and effectual as against the right of his widow to dower.

Priority to partial estates, charges, & specialty debts.

VI. And (d) be it further enacted, That a widow shall not be entitled to dower out of any land of her husband, when in the deed by which such land was conveyed to him, or by any deed executed by him, it shall be declared that his widow shall not be entitled to dower out of such land.

Dower may be barred by a declaration in a deed;

VII. And be it further enacted, That a widow shall not be entitled to dower out of any land of which her husband shall die wholly or partially intestate, when

or by a declaration in the husband's will.

- (a) See Pref. § 1. (b) See *Dower*, § 1. (c) See § 3.
(d) See *Dower*, § 3.

by the will of her husband, duly executed, for the devise of freehold estates he shall declare his intention that she shall not be entitled to dower out of such land or out of any of his land.

Dowers shall be subject to restrictions.

VIII. And be it further enacted, That the right of a widow to dower shall be subject to any conditions, restrictions, or directions which shall be declared by the will of her husband duly executed as aforesaid.

Devise of real estate to the widow shall bar her dower.

IX. And be it further enacted, That where a husband shall devise any land out of which his widow would be entitled to dower, if the same were not so devised, or any estate or interest therein, to or for the benefit of his widow, such widow shall not be entitled to dower out of or in any land of her said husband, unless a contrary intention shall be declared by his will.

Bequest of personal estate to the widow shall not bar her dower.

X. And be it further enacted, That no gift or bequest made by any husband, to or for the benefit of his widow, of or out of his personal estate, or of or out of any of his land not liable to dower, shall defeat or prejudice her right to dower, unless a contrary intention shall be declared by his will.

Agreement not to bar dower may be enforced.

XI. Provided always and be it further enacted, That nothing in this Act contained, shall prevent any court of equity from enforcing any covenant or agreement entered into, by or on the part of any husband, not to bar the right of his widow to dower out of his lands or any of them.

Legacies in bar of dower still entitled to preference.

XII. And be it further enacted, That nothing in this Act contained, shall interfere with any rule of equity, or of any ecclesiastical court, by which legacies to widows in satisfaction of dower are entitled to priority over other legacies.

Certain dowers abolished.

XIII. And be it further enacted, That no widow shall hereafter be entitled to dower *ad ostium ecclesie* or dower *ex assensu patris*.

Act not to take effect before the 1st January 1834.

XIV. And be it further enacted, That this Act shall not extend to the dower of any widow who shall have been or shall be married on or before the first day of January, one thousand eight hundred and thirty-four, and shall not give any will, deed, contract, engagement, or charge, executed, entered into, or created before the said first day of January, one thousand eight hundred and thirty-four, the effect of defeating or prejudicing any right to dower.

REGULÆ GENERALES.

Common Pleas, Hilary Term, 4 W. IV.

Whereas it has been found expedient to make alterations in the General Rules made in Michaelmas Term last by this Court, for the purpose of carrying into

effect the statute passed in the 3rd and 4th years of the reign of his present Majesty, cap. 74, intituled "An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple modes of Assurance:"

And whereas it is necessary to make orders touching the amount of the reasonable fees and charges to be taken by the several persons appointed to carry the powers of the said Act into execution, and it will be convenient that all the orders and regulations made by the Court under the said Act should be contained in the same rule :

Now it is hereby ordered, That the said General Rules be, and the same are hereby revoked : Provided that this present rule shall not be construed in any respect to invalidate any proceedings which before the first of March next ensuing, shall have been taken pursuant to the direction of the said rules of Michaelmas Term last.

Rule M.T.
3 W. IV.
revoked.

And it is hereby further ordered, That where any acknowledgment shall be made by any married woman of any deed under and by virtue of the said Act, before commissioners appointed under the said Act, one at least of the said commissioners shall be a person who is not in any manner interested in the transaction, giving occasion for such acknowledgment or concerned therein, as attorney, solicitor, agent, or as clerk to any attorney, solicitor, or agent so interested or concerned.

Acknowledgment by married women, before whom taken.

And it is hereby further ordered, That before the commissioners shall receive such acknowledgment, they, or in case one of them shall be interested or concerned, as aforesaid, then such one of them as shall not be so interested or concerned, do enquire of every married woman, separately and apart from her husband, and from the attorney and solicitor concerned in the transaction, whether she intends to give up her interest in the estate to be passed by such deed, without having any provision made for her in lieu of, or in return for, or in consequence of her so giving up such interest; and where such married woman, in answer to such enquiry, shall declare that she intends to give up such her interest without any provision, and the said commissioner shall have no reason to doubt the truth of such declaration, and shall verily believe the same to be true, then they shall proceed to receive the said acknowledgement; but if it shall appear to them, or to such one of them as aforesaid, that it is intended that provision is to be made for any such married woman, then the commissioners shall not take her acknowledgment until they are satisfied that such provision has been actually made, by some deed or writing produced to them; or if such provision shall

Examination of married women.

not have been actually made before, then the commissioners shall require the terms of such intended provision to be shortly reduced into writing, and shall verify the same by their signatures in the margin, at the foot, or at the back thereof.

**Affidavit to
verify cer-
tificate.**

And it is hereby further ordered, That the affidavit verifying the certificate to be made pursuant to the said Act, and which certificate shall be in the form contained in the said Act, shall [except in such cases where the acknowledgement shall be taken elsewhere than in England, Wales, or Berwick-upon-Tweed] be made by some practising attorney or solicitor of one of the Courts of Westminster, or of one of the counties palatine of Lancaster or Durham, and that in all cases it shall be deposed in addition to the verification of the said certificate, that the deponent [or, if more than one join in the affidavit, that one or more of the deponents] knew the person or persons making such acknowledgment, and that at the time of making such acknowledgment she or they was or were of full age and competent understanding, and that one at least of the commissioners taking such acknowledgment, to the best of his deponent's knowledge or belief, is not in any manner interested in the transaction giving occasion for the taking such acknowledgment, or concerned therein as attorney, solicitor, or agent, or as clerk to any attorney, solicitor, or agent so interested or concerned, and that the names and residences of the said commissioners, and also the place or places where such acknowledgment or acknowledgments shall be taken, shall be set forth in such affidavit: and that previously to such acknowledgment being taken, the deponent had enquired of such married woman [or, if more than one, of such married women] whether she intended to give up her interest in the estate to be passed, and also the answer given thereto; and where any such married woman, in answer to such enquiry, shall declare that she intends to give up her interest without any provision, the deponent shall state that he has no reason to doubt the truth of such declaration, and he verily believes the same to be true; and where any provision has been agreed to be made, the deponent shall state that the same has been made by deed or writing, or if not actually made before, that the terms of the intended provision have been reduced into writing, which deed or writing he verily believes has been produced by the said Judge [Master or Commissioner].

**Affidavit
must state
parish, or
place and
county.**

And it is hereby further ordered, That the affidavit shall state the parish or several parishes, or place or several places, and the county or counties in which the several premises, wherein any married woman shall

appear to be interested, shall by deed be described to be situate.

And it is hereby further ordered, That the affidavit shall be in the form (a) hereunto annexed, subject to such variations as the circumstances of the case shall render necessary, or such affidavit may be made, where it is found convenient, by one of the said commissioners, with such variation in the form thereof as shall be necessary in that behalf.

Form of affidavit.

And it is hereby further ordered, That the certificates and affidavits verifying the same, shall within one month from the making the acknowledgment, be delivered to the proper officer appointed under the said Act; and that the officer shall not after that time receive the same without the direction of the Court or a Judge.

Certificates are to be delivered to proper officer within one month.
Fees.

And it is hereby further ordered, That the fees and charges to be paid for the copies to be delivered by the clerks of the peace or their deputies, or by the officer of the said Court, and for taking acknowledgments of deeds, and for examining married women, and for the proceedings, matters, and things required by the said Act to be had done and executed for completing and giving effect to such acknowledgments and examinations, shall be as follows :

	£	s.	d.
To a Judge or Master for taking the acknowledgment of every married woman, of which 7s. 6d. will be paid in the case of a Judge to his clerk, and the residue thereof will be paid over to the Treasury; and in the case of a Master the whole will be paid over to the Treasury, or the fee-fund account of the Court of Chancery.....	1	6	8
To the two perpetual commissioners for taking the acknowledgment of every married woman, when not required to go further than a mile from their residence, being 13s. 4d. for each commissioner	1	6	8
To each commissioner, when required to go more than one mile, but not exceeding three miles, besides his reasonable travelling expences.....	1	1	0
To each commissioner, where the distance required shall exceed three miles, besides his reasonable travelling expences.....	2	2	0
To the clerk of the peace or his deputy for every search	0	1	0
To the same for every copy of the list of commissioners, provided such list shall not exceed the number of 100 names	0	5	0

(a) See Form, vol. ii. p. 124.

	£	s.	d.
To the same for every complete number of 50 names, an additional	0	2	0
To the officer for every search	0	1	0
To the same for every official copy of the certificate	0	2	0
To the same for every official copy of a list of commissioners, provided such list shall not exceed the number of 100 names	0	5	0
To the same for every further complete number of 50 names, an additional	0	2	0
To the same for preparing every special commission, including a fee of 5s. to the clerk of the Chief Justice or other Judge of the fiat.	0	15	0
To the same for examining the certificate and affidavit, and filing and indexing the same, as required by the said Act of the 3rd and 4th W. IV. c. 74.	0	5	0

Fees.

And it is hereby further ordered, That the fees and charges to be paid for the entries of deeds required by the said Act to be entered on the court rolls of manors, and for the indorsements thereon, and for taking the consents of the protectors of settlements of lands held by copy of court roll, where such consents shall not be given by deed, and for taking surrenders by which dispositions shall be made under the said Act by tenants in tail of lands held by copy of court roll, and for entries of such surrenders, or the memorandums thereof, on the court rolls, shall be as follows:

	£	s.	d.
For the indorsements on the deed of the memorandum of production, and memorandum of entry on the court rolls to be signed by the lord, steward, or deputy-steward, each indorsement of memorandum 5s. together	0	10	0
For the entries on the court rolls of deeds and the indorsements thereon, at per folio of 72 words.	0	0	6
For taking the consent of each protector of settlement of lands	0	13	4
For taking the surrender by each tenant in tail of lands	0	13	4
For entries of such surrenders, or the memorandums thereof, on the court rolls, at per folio of 72 words	0	0	6

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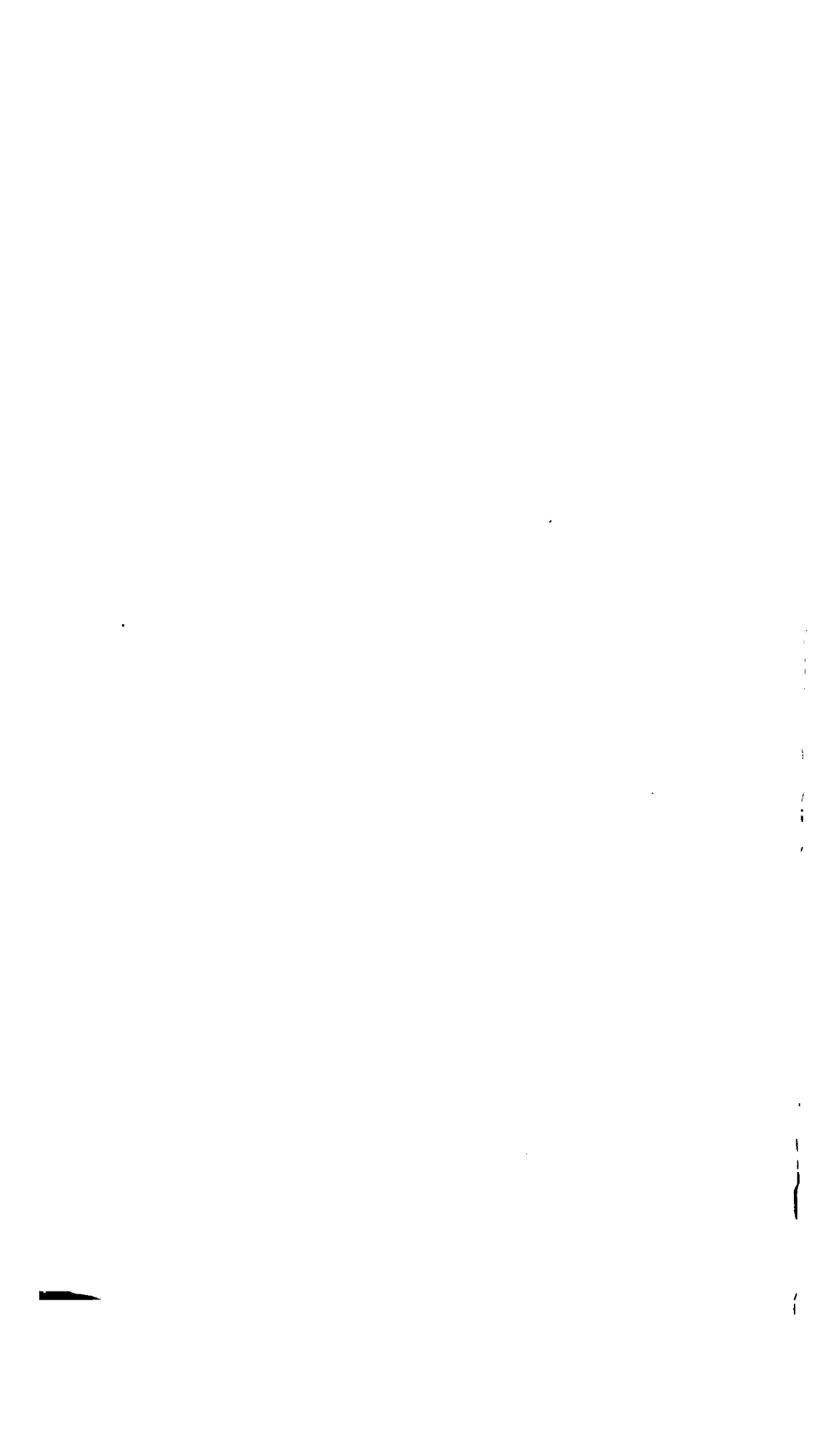
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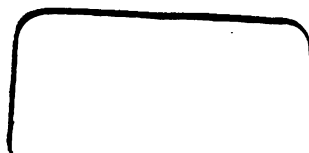
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